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CALIFORNIA STATE MINING BUREAU

FERRY BUILDING, SAN FRANCISCO

McN. HAMILTON - - - - - State Mineralogist

BULLETIN No. 66

San Francisco, January, 1914

# MINING LAWS

UNITED STATES AND CALIFORNIA



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CALIFORNIA STATE MINING BUREAU

FERRY BUILDING, SAN FRANCISCO

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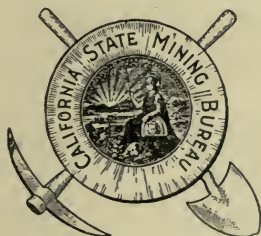
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MINING LAWS

UNITED STATES AND CALIFORNIA

COMPLIMENTS OF  
F. McN. HAMILTON  
STATE MINERALOGIST



FRIEND WM. RICHARDSON, SUPERINTENDENT OF STATE PRINTING

SACRAMENTO, CALIFORNIA

1914







## LETTER OF TRANSMITTAL.

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*To His Excellency, the HON. HIRAM W. JOHNSON,  
Governor of the State of California.*

SIR: I have the honor to transmit herewith this recent compilation of the mining laws of the United States and California.

As there have been a great many inquiries for the laws governing mining in California, not only by the people of the State but also from all parts of the United States and foreign countries, I have considered it necessary to fulfill the demand by issuing this publication.

In view of the fact, also, that water legislation is vital to the mining industry and that regulation of corporations is also of interest to the mining industry, I have herewith appended the Water Commission Act and the Blue Sky law, which have been made inoperative by the Referendum but which are to be voted on at the next election.

Respectfully yours,

FLETCHER McN. HAMILTON,

State Mineralogist.

San Francisco, January, 1914.

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# CALIFORNIA STATE MINING BUREAU.

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The California State Mining Bureau is located on the third floor of the Ferry Building, San Francisco. The institution is supported by legislative appropriation and is under the direction of Hon. F. McN. Hamilton, State Mineralogist. Its purpose is to promote the interests of the mineral industry in California in every possible way. This object is accomplished by various means, briefly outlined as follows:

## GENERAL INFORMATION BUREAU.

Any and all persons making personal or written inquiry in regard to any phase of mining or the occurrence of minerals in California, are given detailed information upon the subject in which they are interested. An information desk is maintained in the Library of the Bureau and the entire staff of assistants is at the service of the public in this regard.

## BUREAU PUBLICATIONS.

Bulletins, reports and maps covering the Mineral Industry of California in detail are available for reference and distribution. Some are for free distribution and for the more elaborate ones a nominal price is asked. (See list of publications on last page.)

## LIBRARY AND READING ROOM.

The Library, which is the recognized mining reference library of the State, contains over 5,000 volumes of selected works, including government, state and individual reports on mines and mining and allied subjects. Here also are to be found files containing copies of the leading technical magazines of the world, together with the current copies of the daily or weekly local papers from most of the mining camps of California. For further reference are available county maps, various mineral and oil maps, topographic sheets, geological folios, etc. In conjunction with the library is maintained a commodious, well-lighted reading room, with tables, desks, etc., which is open daily to the public from 9 a. m. until 5 p. m., except Sundays and holidays, and from 9 a. m. to 12 m. Saturdays.

## LABORATORY.

This department is maintained chiefly for the determination of mineral and rock specimens which are either brought or sent for identification. The work which this department performs is especially reliable and during the past years has been of great assistance to thousands who have taken advantage of this service. (See notice regarding determination of mineral specimens on last page.)

## MUSEUM.

The Museum, which occupies the entire north wing of the third floor of the Ferry Building, with a floor space of 7,500 square feet, is not the least useful adjunct of the Mining Bureau. A complete mineralogical study of California may be carried on from the 20,000 mineral specimens to be seen attractively arranged in this immense exhibit. Aside from its purely scientific interest the Museum daily attracts throngs of tourists and sightseers, and accomplishes a great deal in the way of giving visual evidence of California's vast mineral resources.

## STATISTICAL DEPARTMENT.

Since 1894 the Bureau has annually issued a special bulletin covering in detail the actual mineral production of the State for the preceding year. Data covering the amount and value of the yearly output is received by the statistical department from every individual mineral operator in California, and these returns, when classified and published in county totals, give the clearest possible conception of the various sections of the State, and have proven in the past to be of great aid to prospective investors, and others interested. It is to the undoubted interest of every owner and operator of a mineral property in California to co-operate with the Bureau in its efforts to collect reliable and authoritative statistical data.

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Aside from the above mentioned regularly established departments there is at present under way an exhaustive general report, work upon which was inaugurated during the year 1913. Mining engineers and geologists of ability and experience have been employed as field assistants and these men will personally visit all the mineral sections of the State in search of first hand information regarding extent of operations, equipment, methods and also report upon the undeveloped resources.

This work, together with the equipment which is maintained at the State Mining Bureau for the service of the public, is all undertaken with the single aim of facilitating the development of the mineral resources of the State and aiding in every way possible the investor, prospector and all others in any way connected with the mineral industry.



# MINING BUREAU ACT.

## CHAPTER 679.

An act establishing a state mining bureau, creating the office of state mineralogist, fixing his salary and prescribing his powers and duties; providing for the employment of officers and employees of said bureau, making it the duty of persons in charge of mines, mining operations and quarries to make certain reports, providing for the investigation of mining operations, dealings and transactions and the prosecution for defrauding, swindling and cheating therein, creating a state mining bureau fund for the purpose of carrying out the provisions of this act and repealing an act entitled "An act to provide for the establishment, maintenance, and support of a bureau, to be known as the state mining bureau, and for the appointment and duties of a board of trustees, to be known as the board of trustees of the state mining bureau, who shall have the direction, management and control of said state mining bureau, and to provide for the appointment, duties, and compensation of a state mineralogist, who shall perform the duties of his office under the control, direction and supervision of the board of trustees of the state mining bureau," approved March 23, 1893, and all acts amendatory thereof and supplemental thereto or in conflict herewith.

(Approved June 16, 1913; in effect August 10, 1913.)

*The people of the State of California do enact as follows:*

SECTION 1. There is hereby created and established a state mining bureau. The chief officer of such bureau shall be the state mineralogist, which office is hereby created.

SEC. 2. It shall be the duty of the governor of the State of California and he is hereby empowered to appoint a citizen and resident of this state, having a practical and scientific knowledge of mining, to the office of state mineralogist. Said state mineralogist shall hold his office at the pleasure of the governor. He shall be a civil executive officer. He shall take and subscribe the same oath of office as other state officers. He shall receive for his services a salary of three hundred dollars (\$300) per month, to be paid at the same time and in the same manner as the salaries of other state officers. He shall also receive his necessary traveling expenses when traveling on the business of his office. He shall give bond for the faithful performance of his duties in the sum of ten thousand dollars (\$10,000), said bond to be approved by the governor of the State of California.

SEC. 3. Said state mineralogist shall employ competent geologists, field assistants, qualified specialists and office employees when necessary in the execution of his plans and operations of the bureau, and fix their compensation. The said employees shall be allowed their necessary traveling expenses when traveling on the business of said department and shall hold office at the pleasure of said state mineralogist.

SEC. 4. It shall be the duty of said state mineralogist to make, facilitate, and encourage, special studies of the mineral resources and mineral industries of the state. It shall be his duty: to collect statistics concerning the occurrence and production of the economically important minerals and the methods pursued in making their valuable constituents available for commercial use; to make a collection of typical geological and mineralogical specimens, especially those of economic and commer-

cial importance, such collection constituting the museum of the state mining bureau; to provide a library of books, reports, drawings, bearing upon the mineral industries, and sciences of mineralogy and geology, and arts of mining and metallurgy, such library constituting the library of the state mining bureau; to make a collection of models, drawings and descriptions of the mechanical appliances used in mining and metallurgical processes; to preserve and so maintain such collections and library as to make them available for reference and examination, and open to public inspection at reasonable hours; to maintain, in effect, a bureau of information concerning the mineral industries of this state, to consist of such collections and library, and to arrange, classify, catalogue, and index the data therein contained, in a manner to make the information available to those desiring it; to issue from time to time such bulletins as he may deem advisable concerning the statistics and technology of the mineral industries of this state.

SEC. 5. It is hereby made the duty of the owner, lessor, lessee, agent, manager or other person in charge of each and every mine, of whatever kind or character, within the state, to forward to the state mineralogist, upon his request, at his office not later than the thirtieth day of June, in each year, a detailed report upon forms which will be furnished showing the character of the mine, the number of men then employed, the method of working such mine and the general condition thereof, the total mineral production for the past year, and such owner, lessor, lessee, agent, manager or other person in charge of any mine within the state must furnish whatever information relative to such mine as the state mineralogist may from time to time require for the proper discharge of his official duties. Any owner, lessor, lessee, agent, manager or other person in charge of each and every mine, of whatever kind or character within the state, who fails to comply with the above provisions shall be deemed guilty of a misdemeanor.

SEC. 6. The state mineralogist now performing the duties of the office of state mineralogist shall perform the duties of the office of state mineralogist as in this act provided until the appointment and qualification of his successor as in this act provided.

SEC. 7. The said state mineralogist shall take possession, charge and control of the offices now occupied and used by the board of trustees and state mineralogist and the museum, library and laboratory of the mining bureau located in San Francisco as provided for by a certain act of the legislature approved March 23, 1893, and hereafter referred to in section 14 hereof, and shall maintain such offices, museum, library and laboratory for the purposes provided in this act.

SEC. 8. Said state mineralogist or qualified assistant shall have full power and authority at any time to enter or examine any and all mines, quarries, wells, mills, reduction works, refining works and other mineral properties or working plants in this state in order to gather data to comply with the provisions of this act.

SEC. 9. The state mineralogist shall make a biennial report to the governor on or before the fifteenth day of September next preceding the regular session of the legislature.

SEC. 10. All moneys received by the state mining bureau or any officer thereof (except such as may be paid to them by the state for disbursement) shall be receipted for by the state mineralogist or other



after authorized by him to act in his place and at least once a month accounted for by him to the state controller and paid into the state treasury to the credit of a fund which is hereby created and designated "State Mining Bureau Fund." All moneys now in the possession of the state mining bureau or any officer thereof received from any source whatsoever, shall be immediately paid over to the state mineralogist and by him accounted for to the controller and paid into the state treasury to the credit of said fund. Said fund shall be used and is hereby appropriated for the use of said bureau in carrying out the purposes of this act.

SEC. 11. The said state mineralogist is hereby authorized and empowered to receive on behalf of this state, for the use and benefit of the state mining bureau, gifts, bequests, devises and legacies of real or other property and to use the same in accordance with the wishes of the donors, and if no instructions are given by said donors, to manage, use, and dispose of the gifts and bequests and legacies for the best interests of said state mining bureau and in such manner as he may deem proper.

SEC. 12. The state mineralogist may whenever he deems it advisable, prepare a special collection of ores and minerals of California to be sent to or used at any world's fair or exposition in order to display the mineral wealth of the state.

SEC. 13. The state mineralogist is hereby empowered to fix a price upon and to dispose of to the public, at such price, any and all publications of the state mining bureau, including reports, bulletins, maps, registers or other publications; such price shall approximate the cost of publication and distribution. Any and all sums derived from such disposition, or from gifts or bequests made, as hereinbefore provided must be accounted for by said state mineralogist and turned over to the state treasurer to be credited to the mining bureau fund as provided for in section 10. He is also empowered to furnish without cost to public libraries the publications of the bureau, and to exchange publications with other geological surveys and scientific societies, etc.

SEC. 14. The state mineralogist provided for by this act shall be the successor in interest of the board of trustees of the state mining bureau, and the state mineralogist, under and by virtue of that certain act entitled "An act to provide for the establishment, maintenance, and support of a bureau, to be known as the state mining bureau, and for the appointment and duties of a board of trustees, to be known as the board of trustees of the state mining bureau, who shall have the direction, management, and control of said state mining bureau, and to provide for the appointment, duties, and compensation of a state mineralogist, who shall perform the duties of his office under the control, direction and supervision of the board of trustees of the state mining bureau," approved March 23, 1893, and all books, papers, documents, personal property, records, and property of every kind or description obtained or possessed, or held or controlled by the said board of trustees of the said state mining bureau, and the state mineralogist, and the clerks and employees thereof, under the provisions of said act of March 23, 1893, or any act supplemental thereto or amendatory thereof, shall immediately be turned over and delivered to the said state mineralogist herein provided for, who shall have charge and control thereof.



SEC. 15. That certain act entitled "An Act to provide for the establishment, maintenance, and support of a bureau, to be known as the state mining bureau, and for the appointment and duties of a board of trustees, to be known as the board of trustees of the state mining bureau, and to provide for the appointment, duties and compensation of a state mineralogist, who shall perform the duties of his office under the control, direction, and supervision of the board of trustees of the state mining bureau," approved March 23, 1893, together with all acts amendatory thereof and supplemental thereto and all acts in conflict herewith are hereby repealed.

## FEDERAL STATUTES.

## Title XXXII, Chapter 6, Revised Statutes.

SEC. 2319. All valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States.

SEC. 2320. Mining claims upon veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, heretofore located, shall be governed as to length along the vein or lode by the customs, regulations, and laws in force at the date of their location. A mining claim located after the tenth day of May, eighteen hundred and seventy-two, whether located by one or more persons, may equal, but shall not exceed, one thousand five hundred feet in length along the vein or lode; but no location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located. No claim shall extend more than three hundred feet on each side of the middle of the vein at the surface, nor shall any claim be limited by any mining regulation to less than twenty-five feet on each side of the middle of the vein at the surface, except where adverse rights existing on the tenth day of May, eighteen hundred and seventy-two, render such limitation necessary. The end lines of each claim shall be parallel to each other.

SEC. 2321. Proof of citizenship, under this chapter, may consist, in the case of an individual, of his own affidavit thereof; in the case of an association of persons unincorporated, of the affidavit of their authorized agent, made on his own knowledge, or upon information and belief; and in the case of a corporation organized under the laws of the United States, or of any state or territory thereof, by the filing of a certified copy of their charter or certificate of incorporation.

This is supplemented by an act of April 26, 1882, which provides: "That applicants for mineral patents, if residing beyond the limits of the district wherein the claim is situated, may make any oath or affidavit required for proof of citizenship before the clerk of any court of record, or before any notary public of any state or territory," (22 Stats. at Large, p. 49, chap. 106.)

SEC. 2322. The locators of all mining locations heretofore made or which shall hereafter be made, on any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, where no adverse claims exist on the tenth day of May, eighteen hundred and seventy-two, so long as they comply with the laws of the United States, and with state, territorial and local regulations not in conflict with the laws of the United States governing their possessory title, shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations, and of all veins, lodes and ledges throughout their entire depth, the top or apex of which lies inside of such surface lines extended downward vertically, although

such veins, lodes, or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side lines of such surface locations. But their right of possession to such outside parts of such veins or ledges shall be confined to such portions thereof as lie between vertical planes drawn downward as above described through the end lines of their locations, so continued in their own direction that such planes will intersect such exterior parts of such veins or ledges. And nothing in this section shall authorize the locator or possessor of a vein, or lode which extends in its downward course beyond the vertical lines of his claim, to enter upon the surface of a claim owned or possessed by another.

SEC. 2323. Where a tunnel is run for the development of a vein or lode, or for the discovery of mines, the owners of such tunnel shall have the right of possession of all veins or lodes within three thousand feet from the face of such tunnel on the line thereof, not previously known to exist, discovered in such tunnel, to the same extent as if discovered from the surface and locations on the line of such tunnel of veins or lodes not appearing on the surface, made by other parties after the commencement of the tunnel, and while the same is being prosecuted with reasonable diligence, shall be invalid but failure to prosecute the work on the tunnel for six months shall be considered as an abandonment of the right to all undiscovered veins on the line of such tunnel.

SEC. 2324. The miners of each mining district may make regulations not in conflict with the laws of the United States, or with the laws of the state or territory in which the district is situated, governing the location, manner of recording, amount of work necessary to hold possession of a mining claim, subject to the following requirements. The location must be distinctly marked on the ground so that its boundaries can be readily traced. All records of mining claims hereafter made shall contain the name or names of the locators, the date of the location, and such a description of the claim or claims located by reference to some natural object or permanent monument as will identify the claim. On each claim located after the tenth day of May, eighteen hundred and seventy-two, and until a patent has been issued therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made during each year.

*Be it enacted by the senate and house of representatives of the United States of America in congress assembled, that section two thousand, three hundred and twenty-four of the Revised Statutes be and the same is hereby, amended so that where a person or company has or may run a tunnel for the purpose of developing a lode or lodes, owned by said person or company, the money so expended in said tunnel shall be taken and considered as expended on said lode or lodes, whether located prior to or since the passage of said act; and such person or company shall not be required to perform work on the surface of said lode or lodes in order to hold the same as required by said act. (18 Stats. at Large, page 315, chap. 41.)*

An amendment of January 22, 1880, reads:

*"Provided, that the period within which the work required to be done annually on all unpatented mineral claims shall commence on the first day of January succeeding the date of location of such claim and this section shall apply to all claims located since the tenth day of*



May, Anno Domini eighteen hundred and seventy-two." (21 Stats. at Large, page 61, chap. 9.)

The federal law fixes the minimum of labor requirements. State and local laws may require additional work as part of the act of location. This has been sustained by Supreme Court decisions.

Section 2325 of the federal statutes provides that after \$500 has been expended on a mining claim in work or improvements, a patent can be applied for upon the claim being surveyed by a United States mineral surveyor, and by the payment of \$5 per acre for the land to the United States government.

SEC. 2329. Claims usually called "placers" including all forms of deposit, excepting veins of quartz, or other rock in place, shall be subject to entry and patent, under like circumstances and conditions, and upon similar proceedings, as are provided for vein or lode claims; but where the lands have been previously surveyed by the United States, the entry in its exterior limits shall conform to the legal subdivisions of the public lands.

The following can be located as placer: Stone, oil, salt springs, granite quarries, marble.

(Act of August 4, 1892, ch. 375, 27 Stat. L. 348.)

**Entry of building stone lands under placer laws.**

SECTION 1. Any person authorized to enter lands under the mining laws of the United States may enter lands that are chiefly valuable for building stone under the provisions of the law in relation to placer mineral claims; *provided*, that lands reserved for the benefit of the public schools or donated to any state shall not be subject to entry under this act. (27 Stat. L. 348.)

(Act of January 31, 1901, ch. 186, 31 Stat. L. 745.)

**Entry of saline lands under placer laws.**

All unoccupied public lands of the United States containing salt springs, or deposits of salt in any form, and chiefly valuable therefor, are hereby declared to be subject to location and purchase under the provisions of the law relating to placer mining claims; *provided*, that the same person shall not locate or enter more than one claim hereunder. (31 Stat. L. 745.)

SEC. 2330. Legal subdivisions of forty acres may be subdivided into ten-acre tracts, and two or more persons, or associations of persons, having contiguous claims of any size, although such claims may be less than ten acres each, may make joint entry thereof; but no location of a placer claim, made after the ninth day of July, eighteen hundred and seventy, shall exceed one hundred and sixty acres for any one person or association of persons, which location shall conform to the United States surveys; and nothing in this section contained shall defeat or impair any bona fide preemption or homestead claim upon agricultural lands, or authorize the sale of the improvements of any bona fide settler to any purchaser.

SEC. 2331. Where placer claims are upon surveyed lands, and conform to legal subdivisions, no further survey or plat shall be required, and all placer mining claims located after the tenth day of May, eighteen hundred and seventy-two, shall conform as near as practicable with the United States system of public lands surveys, and the rectangular subdivisions of such surveys, and no such location shall include

more than twenty acres for each individual claimant; but where placer claims can not be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands; and where by the segregation of mineral land in any legal subdivision a quantity of agricultural land less than forty acres remains, such fractional portion of agricultural land may be entered by any party qualified by law, for homestead or preemption purposes.

#### **Placer boundaries.**

SEC. 2333. Where the same person, association, or corporation is in possession of a placer claim, and also a vein or lode included within the boundaries thereof, application shall be made for a patent for the placer claim, with the statement that it includes such vein or lode, and in such case a patent shall issue for the placer claim, subject to the provisions of this chapter, including such vein or lode upon the payment of five dollars per acre for such vein or lode claim, and twenty-five feet of surface on each side thereof. The remainder of the placer claim, or any placer claim not embracing any vein or lode claim, shall be paid for at the rate of two dollars and fifty cents per acre, together with all costs of proceedings; and where a vein or lode, such as is described in section twenty-three hundred and twenty, is known to exist within the boundaries of a placer claim, an application for a patent for such placer claim which does not include an application for the vein or lode claim shall be construed as a conclusive declaration that the claimant of the placer claim has no right of possession of the vein or lode claim; but where the existence of a vein or lode in a placer claim is not known, a patent for the placer claim shall convey all valuable mineral and other deposits within the boundaries thereof.

### **OIL AND GAS CLAIMS.**

These are located as placer claims. See sections 2329 to 2333, U. S. statutes.

**An act authorizing entry of petroleum or other mineral oil lands under placer claim laws.**

Any person authorized to enter lands under the mining laws of the United States may enter and obtain patents to lands containing petroleum or other mineral oils, and chiefly valuable therefor, under the provisions of the laws relating to placer mineral claims; *provided*, that lands containing such petroleum or other mineral oils which have heretofore been filed upon, claimed, or improved as mineral, but not yet patented, may be held and patented under the provisions of this act the same as if such filing, claim or improvement were subsequent to the date of the passage hereof. (29 Stat. L. 526.) Approved Feb. 11, 1897.

**An act defining what shall constitute assessments on oil mining claims.**

(Act of February 12, 1903, ch. 548, 32 Stat. L. 825.)

Where oil lands are located under the provisions of title thirty-two, chapter six, Revised Statutes of the United States, as placer mining claims, the annual assessment labor upon such claims may be done upon any one of a group of claims lying contiguous and owned by the same person or corporation, not exceeding five claims in all; *provided*, that said labor will tend to the development or to determine the oil-bearing character of such contiguous claims.



### THE "PICKETT BILL."

An act to authorize the President of the United States to make withdrawals of public lands in certain cases.

This provides also:

SEC. 2. All lands withdrawn under the provisions of this act shall at all times be open to exploration, discovery, occupation, and purchase, under the mining laws of the United States, so far as the same apply to minerals other than coal, oil, gas, and phosphates.

### MINING CLAIMS IN FOREST RESERVES.

The congressional act of June 4, 1897, provides:

"It is not the purpose or intent of these provisions, or of the act providing for such reservations, to authorize the inclusion therein of lands more valuable for the mineral therein, or for agricultural purposes, than for forest purposes."

\* \* \*

"Nor shall anything herein prohibit any person from entering upon such forest reservations for all proper and lawful purposes, including that of prospecting, locating and developing the mineral resources hereof; *provided*, that such persons comply with the rules and regulations covering such forest reservations."

\* \* \*

"And any mineral lands in any forest reservation which have been or may be shown to be such and subject to entry under the existing mining laws of the United States and the rules and regulations applying thereto, shall continue to be subject to such location and entry notwithstanding any provisions herein contained."

Under these statutes it is now held by the land department that the forest reserves are open to the location of mining claims. There can be no doubt of the meaning of congress upon this subject: That lands within the forest reserves are subject to the operation of the mining laws.

### CALIFORNIA DEBRIS COMMISSION.

An act to create the California Débris Commission and Regulate Hydraulic mining in the State of California.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That a commission is hereby created, to be known as the California Débris Commission, consisting of three members. The president of the United States shall, by and with the advice and consent of the Senate, appoint the commission from officers of the corps of engineers, United States army. Vacancies occurring therein shall be filled in like manner. It shall have the authority, and exercise the powers hereinafter set forth, under the supervision of the chief of engineers and direction of the secretary of war.

SEC. 2. That said commission shall organize within thirty days after its appointment by the selection of such officers as may be required in the performance of its duties, the same to be selected from the members

thereof. The members of said commission shall receive no greater compensation than is now allowed by law to each, respectively, as an officer of said corps of engineers. It shall also adopt rules and regulations, not inconsistent with law, to govern its deliberations and prescribe the method of procedure under the provisions of this act.

SEC. 3. That the jurisdiction of said commission, in so far as the same affects mining carried on by the hydraulic process shall extend to all such mining in the territory drained by the Sacramento and San Joaquin river systems in the State of California. Hydraulic mining, as defined in section eight hereof, directly or indirectly injuring the navigability of said river systems, carried on in said territory other than as permitted under the provisions of this act is hereby prohibited and declared unlawful.

SEC. 4. That it shall be the duty of said commission to mature and adopt such plan or plans, from examinations and surveys already made and from such additional examinations and surveys as it may deem necessary, as will improve the navigability of all the rivers comprising said systems, deepen their channels, and protect their banks. Such plan or plans shall be matured with a view of making the same effective as against the encroachment of and damage from débris resulting from mining operations, natural erosion, or other causes, with a view of restoring, as near as practicable and the necessities of commerce and navigation demand, the navigability of said rivers to the condition existing in eighteen hundred and sixty, and permitting mining by the hydraulic process, as the term is understood in said state, to be carried on, provided the same can be accomplished without injury to the navigability of said rivers or the lands adjacent thereto.

SEC. 5. That it shall further examine, survey, and determine the utility and practicability, for the purposes hereinafter indicated, of storage sites in the tributaries of said rivers and in the respective branches of said tributaries, or in the plains, basins, sloughs, and tule and swamp lands adjacent to or along the course of said rivers, for the storage of débris or water or as settling reservoirs, with the object of using the same by either or all of these methods to aid in the improvement and protection of said navigable rivers by preventing deposits therein of débris resulting from mining operations, natural erosion, or other causes, or for affording relief thereto in flood time and providing sufficient water to maintain scouring force therein in the summer season; and in connection therewith to investigate such hydraulic and other mines as are now or may have been worked by methods intended to restrain the débris and material moved in operating such mines by impounding dams, settling reservoirs, or otherwise, and in general to make such study of and researches in the hydraulic mining industry as science, experience and engineering skill may suggest as practicable and useful in devising a method or methods whereby such mining may be carried on as aforesaid.

SEC. 6. That the said commission shall from time to time note the conditions of the navigable channels of said river systems, by cross-section surveys or otherwise, in order to ascertain the effect therein of such hydraulic mining operations as may be permitted by its orders and such as is caused by erosion, natural or otherwise.



SEC. 7. That said commission shall submit to the chief of engineers or the information of the secretary of war, on or before the fifteenth day of November of each year a report of its labors and transactions, with plans for the construction, completion, and preservation of the public works outlined in this act, together with estimates of the cost thereof, stating what amounts can be profitably expended thereon each year. The secretary of war shall thereupon submit same to congress on or before the meeting thereof.

SEC. 8. That for the purposes of this act "hydraulic mining" and mining by the hydraulic process," are hereby declared to have the meaning and application given to said terms in said state.

SEC. 9. That the individual proprietor or proprietors, or in case of corporation its manager or agent appointed for that purpose, owning mining ground in the territory in the State of California mentioned in section three hereof, which it is desired to work by the hydraulic process, must file with said commission a verified petition, setting forth such facts as will comply with law and the rules prescribed by said commission.

SEC. 10. That said petition shall be accompanied by an instrument duly executed and acknowledged, as required by the law of the said state, whereby the owner or owners of such mine or mines surrender to the United States the right and privilege to regulate by law, as provided in this act, or any law that may hereafter be enacted, or by such rules and regulations as may be prescribed by virtue thereof the manner and method in which the débris resulting from the working of said mine or mines shall be restrained, and what amount shall be produced therefrom; it being understood that the surrender aforesaid shall not be construed as in any way affecting the right of such owner or owners to operate said mine or mines by any other process or method now in use in said state; *provided*, that they shall not interfere with the navigability of the aforesaid rivers.

SEC. 11. That the owners of several mining claims situated so as to require a common dumping ground or dam or other restraining works for the débris issuing therefrom in one or more sites may file a joint petition setting forth such facts in addition to the requirements of section nine hereof; and where the owner of a hydraulic mine or owners of several such mines have and use common dumping sites for ponding débris or as settling reservoirs which sites are located below the mine of an applicant not entitled to use same, such fact shall also be stated in said petition. Thereupon the same proceedings shall be had as provided for herein.

SEC. 12. A notice specifying briefly the contents of said petition and fixing a time previous to which all proofs are to be submitted shall be published by said commission in some newspaper or newspapers of general circulation in the communities interested in the matter set forth herein. If published in a daily paper such publication shall continue for at least ten days; if in a weekly paper in at least three issues of the same. Pending publication thereof said commission, or a committee thereof, shall examine the mine and premises described in such petition. On or before the time so fixed all parties interested, either petitioners or contestants, whether miners or agriculturists, may file affidavits, plans, and maps in support of their respective claims.

Further hearings, upon notice to all parties of record, may be granted by the commission when necessary.

SEC. 13. That in case a majority of the members of said commission within thirty days after the time so fixed, concur in a decision in favor of the petitioner or petitioners, the said commission shall thereupon make an order directing the methods and specifying in detail the manner in which operations shall proceed in such mine or mines; what restraining or impounding works, if facilities therefor can be found, shall be built and maintained; how and of what material; where to be located; and in general set forth such further requirements and safeguards as will protect the public interests and prevent injury to the said navigable rivers, and the lands adjacent thereto, with such further condition and limitations as will observe all the provisions of this act in relation to the working thereof and the payment of taxes on the gross proceeds of the same; *provided*, that all expense incurred in complying with said order shall be borne by the owner or owners of such mine or mines.

SEC. 14. That such petitioner or petitioners must within a reasonable time present plans and specifications of all works required to be built in pursuance of said order for examination, correction, and approval by said commission; and thereupon work may immediately commence thereon under the supervision of said commission or representative thereof attached thereto from said corps of engineers, who shall inspect same from time to time. Upon completion thereof, if found in every respect to meet the requirements of the said order and said approved plans and specifications, permission shall thereupon be granted to the owner or owners of such mine or mines to commence mining operations, subject to the conditions of said order and the provisions of this act.

SEC. 15. That no permission granted to a mine owner or owner under this act shall take effect, so far as regards the working of a mine, until all impounding dams or other restraining works, if any are prescribed by the order granting such permission, have been completed and until the impounding dams or other restraining works or settling reservoirs provided by said commission have reached such stage as in the opinion of said commission, it is safe to use the same *provided, however*, that if said commission shall be of the opinion that the restraining and other works already constructed at the mine or mines shall be sufficient to protect the navigable rivers of said system and the work of said commission, then the owner or owners of such mine or mines may be permitted to commence operations.

SEC. 16. That in case the joint petition referred to in section eleven hereof is granted, the commission shall fix the respective amounts to be paid by each owner of such mines toward providing and building necessary impounding dams or other restraining works. In the event of a petition being filed after the entry of such order, or in case the impounding dam or dams or other restraining works have already been constructed and accepted by said commission, the commission shall fix such amount as may be reasonable for the privilege of dumping therein, which amount shall be divided between the original owner of such impounding dams or other restraining works in proportion to the amount respectively paid by each party owning same. The expenses of maintaining and protecting such joint dam or works shall be divided



among mine owners using the same in such proportion as the commission shall determine. In all cases where it is practicable, restraining and impounding works are to be provided, constructed and maintained by mine owners near or below the mine or mines before reaching the main tributaries of said navigable waters.

SEC. 17. That at no time shall any more débris be permitted to be washed away from any hydraulic mine or mines situated on the tributaries of said rivers and the respective branches of each, worked under the provisions of this act, than can be impounded within the restraining works erected.

SEC. 18. That the said commission may at any time when the condition of the navigable rivers or when the capacities of all impounding and settling facilities erected by mine owners or such as may be provided by government authority require same, modify the order granting the privilege to mine by the hydraulic mining process so as to reduce amount thereof to meet the capacities of the facilities then in use, or, if actually required in order to protect the navigable rivers from damage, may revoke same until the further notice of the commission.

SEC. 19. That an intentional violation on the part of a mine owner or owners, company, or corporation, or the agents or the employees of either, of the conditions of the order granted pursuant to section thirteen, or such modifications thereof as may have been made by said commission, shall work a forfeiture of the privileges thereby conferred, and upon notice being served by the order of said commission upon such owner or owners, company or corporation, or agent in charge, work shall immediately cease. Said commission shall take necessary steps to enforce its orders in case of the failure, neglect, or refusal of such owner or owners, company, or corporation, or agents thereof, to comply therewith, or in the event of any person or persons, company or corporation working by said process in said territory contrary to law.

SEC. 20. That said commission, or a committee therefrom or officer of said corps assigned to duty under its orders, shall, whenever deemed necessary, visit said territory and all mines operating under the provisions of this act. A report of such examination shall be placed on file.

SEC. 21. That the said commission is hereby granted the right to use any of the public lands of the United States, or any rock, stone, timber, trees, brush, or material thereon or therein, for any of the purposes of this act; and the secretary of the interior is hereby authorized and requested, after notice has been filed with the commissioner of the general land office by said commission, setting forth what public lands are required by it under the authority of this section, that such lands shall be withdrawn from sale and entry under the laws of the United States.

SEC. 22. That any person or persons who wilfully or maliciously injure, damage, or destroy, or attempt to injure, damage or destroy, by dam or other work erected under the provisions of this act for restraining, impounding, or settling purposes, or for use in connection therewith, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not to exceed the sum of five thousand dollars or be imprisoned not to exceed five years, or by both such

fine and imprisonment, in the discretion of the court. And any person or persons, company or corporation, their agents or employees who shall mine by the hydraulic process directly or indirectly injuring the navigable waters of the United States, in violation of the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the court; *provided*, that this section shall take effect on the first day of May, eighteen hundred and ninety-three.

SEC. 23. That upon the construction by the said commission of dams or other works for the detention of débris from hydraulic mine and the issuing of the order provided for by this act to any individual company, or corporation to work any mine or mines by hydraulic process, the individual, company, or corporation operating thereunder working any mine or mines by hydraulic process, the débris from which flows into or is in whole or in part restrained by such dams or other works erected by said commission, shall pay a tax of three per centum on the gross proceeds of his, their, or its mine so worked; which tax of three per centum shall be ascertained and paid in accordance with regulations to be adopted by the secretary of the treasury, and the treasurer of the United States is hereby authorized to receive the same. All sums of money paid into the treasury under this section shall be set apart and credited to a fund to be known as the "Débris Fund," and shall be expended by said commission under the supervision of the chief of engineers and direction of the secretary of war, in addition to the appropriations made by law in the construction and maintenance of such restraining works and settling reservoirs as may be proper and necessary; *provided*, that said commission is hereby authorized to receive and pay into the treasury from the owner or owners of mine worked by the hydraulic process, to whom permission may have been granted so to work under the provisions thereof, such money advanced as may be offered to aid in the construction of such impounding dam or other restraining works, or settling reservoirs, or sites therefor, as may be deemed necessary by said commission to protect the navigable channels of said river systems, on condition that all moneys so advanced shall be refunded as the said tax is paid into the said débris fund; *and provided, further*, that in no event shall the government of the United States be held liable to refund same except as directed by this section.

SEC. 24. That for the purpose of securing harmony of action and economy of expenditures in the work to be done by the United States and the State of California, respectively, the former in its plans for the improvement and protection of the navigable streams and to prevent the depositing of mining débris or other materials within the same, and the latter in its plans authorized by law for the reclamation, drainage, and protection of its lands, or relating to the working of hydraulic mines, the said commission is empowered to consult thereon with a commission of engineers of said state, if authorized by said state for said purpose, the result of such conference to be reported to the chief of engineers of the United States army, and if by him approved shall be followed by said commission.



SEC. 25. That said commission, in order that such material as is now or may hereafter be lodged in the tributaries of the Sacramento and San Joaquin river systems resulting from mining operations, natural erosion, or other causes, shall be prevented from injuring the said navigable rivers or such of the tributaries of either as may be navigable and the land adjacent thereto, is hereby directed and empowered, when appropriations are made therefor by law, or sufficient money is deposited for that purpose in said débris fund, to build at such points above the head of navigation in said rivers and on the main tributaries thereof, or branches of such tributaries, or at any place adjacent to the same, which in the judgment of said commission will effect said object (the same to be of such material as will insure safety and permanency), such restraining or impounding dams and settling reservoirs, with such canals, locks, or other works adapted and required to complete same. The recommendations contained in executive document numbered two hundred and sixty-seven, fifty-first congress, second session, and executive document numbered ninety-eight, forty-seventh congress, first session, as far as they refer to impounding dams, or other restraining works are hereby adopted, and the same are directed to be made the basis of operations. The sum of fifteen thousand dollars is hereby appropriated, from moneys in the treasury not otherwise appropriated, to be immediately available to defray the expenses of said commission.

Approved March 1, 1893.

### INSTRUCTIONS TO OWNERS AND OPERATORS OF HYDRAULIC MINES IN CALIFORNIA.

January 1, 1906.

1. The California Débris Commission is composed of three officers of the corps of engineers, United States army, who are appointed by the president of the United States, with the advice and consent of the Senate, under the authority of the act of congress, approved March 1, 1893. The commission is charged by this act with the enforcement of its provisions, including such regulation and control of hydraulic mining in the drainage areas of the Sacramento and San Joaquin rivers of the State of California as is necessary to cause the tailings from such mining to be so impounded in the vicinity of the mine as to prevent injury to the navigable rivers and adjacent lands. The owners and operators of such mines are required by this law to comply strictly with such requirements of the commission as may be deemed necessary to effect this purpose. An extreme penalty of \$5,000 fine and one year's imprisonment is provided for violation of the act.

2. Hydraulic mining embraces all mining operations where water is used under pressure through a nozzle against any bank of earth, gravel, or other similar material, thus eroding the bank. It is forbidden by law except under the supervision of the commission.

3. The law requires that in all cases a license or written permission must be obtained from the commission before hydraulic mining in the regions mentioned can be legally carried on.

4. Licenses or permission to mine by the hydraulic process are revocable by the commission, and will not be given unless the requirements

of the commission are complied with as to sufficiency of suitable restraining barriers or dams. Licenses, when granted, will be suspended or revoked for failure to properly maintain such barriers or dams or for failure to make the reports and furnish information asked for by the commission.

5. Licenses are obtained by making application to the California Débris Commission, San Francisco, Cal., on the special blank form issued by the commission, copies of which will be sent on request, free of cost.

6. Licenses are not transferable and are valid only for the operations of the individual or company, and for the special mine named in the license.

7. By the terms of the law an application for a license must be advertised by the commission in the newspapers to allow any protests to be filed with the commission. This advertising usually takes about three weeks.

8. As soon as practicable after advertising an application, the sites proposed by the applicants for the restraining works are visited, and if found satisfactory, authority to construct the dams or barriers is given with the commission's specifications and instructions for the work. Any dam built before such authorization is built wholly at the builder's risk, and may not be accepted by the commission. Any variation in location or character of work from that specified by the commission may also cause rejection of the dam.

9. When such authorized dams are completed, the commission should be promptly notified so that an inspection may be made as soon as practicable thereafter. If found satisfactory, a revocable license to mine will be issued. *Until the license is issued it is illegal to mine.*

10. When mining has been begun under a license, a report every month must be submitted on one of the blank forms furnished for this purpose by the commission upon request. If no mining is carried on for any month, the small form is to be used, otherwise, the large form must be forwarded. All blank spaces should be carefully and accurately filled.

11. In case of any accident to a restraining dam affecting its efficiency, mining must immediately cease and the commission must be promptly notified.

12. When a dam becomes full of débris, mining must cease until more impounding capacity is provided either by raising the dam or by the construction of new dams. The permission of the commission must be obtained to raise dams, and the work when completed must be inspected and approved by the commission before mining may be resumed.

13. Dams must be kept water tight and a pool at least three feet deep must be maintained as a settling basin above each dam while mining is in progress. Leaks must be promptly checked.

14. Names of mines must not be changed without due notice to the commission.

15. No charges or fees of any kind are required or allowed, all expenses of inspection being borne by the United States.

16. The mine owners are usually expected to meet the inspector at the nearest railway or stage station and take him to the mine and back.

As many regions where mines are located are inaccessible in winter time, applications for licenses and inspections should be submitted as early in the season as practicable. Delay in attending to this promptly may occasion the loss of considerable time if not an entire season.

17. To avoid delay due to loss of letters it is suggested that requests be repeated within a reasonable time, if not promptly acknowledged or acted upon. All communications should be addressed to the secretary, California Débris Commission, San Francisco, Cal.

By direction of the California Débris Commission.

S. A. CHENEY,  
Major, Corps of Engineers, Secretary.



## CALIFORNIA STATUTES.

An act to repeal Title XI of Part IV of Division First of the Civil Code and each and every section of said title, and to substitute a new Title XI to take the place thereof in said code, relating to mining corporations.

[Approved March 21, 1905.]

*The people of the State of California, represented in senate and assembly, do enact as follows:*

SECTION 1. Title XI and Part IV of Division First of the Civil Code and each and every section of said title are hereby repealed, and a new Title XI is substituted in place thereof in said code, to read as follows:

### TITLE XI.

#### MINING CORPORATIONS.

SEC. 586. Transfer agencies.

587. Stock issued at transfer agencies.

587a. Consolidation of mining corporations.

588. Books and balance sheets to be kept by secretary. Stockholders' right to inspect.

589. Right of stockholders to visit mine with expert.

590. Liability of presidents and directors.

§ 586. Any corporation organized in this state for the purpose of mining or carrying on mining operations in or without this state, may establish and maintain agencies in other states of the United States, for the transfer and issuing of their stock; and a transfer or issue of the same at any such transfer agency, in accordance with the provisions of its by-laws, is valid and binding as fully and effectually for all purposes as if made upon the books of such corporation at its principal office within this state. The agencies must be governed by the by-laws and the directors of the corporation.

§ 587. All stock of any such corporation, issued at a transfer agency, must be signed by the president and secretary of the corporation, and countersigned at the time of its issue by the agent having charge of the transfer agency. No stock must be issued at a transfer agency unless the certificate of stock, in lieu of which the same is issued, is at the time surrendered for cancellation.

§ 587a. It is lawful for two or more corporations formed, or that may hereafter be formed, under the laws of this state, for mining purposes, which own or possess mining claims or lands adjoining each other, or lying in the same vicinity, to consolidate their capital stock, debts, property, assets and franchises, in such manner and upon such terms as may be agreed upon by the respective boards of directors or trustees of such corporations so desiring to consolidate their interests; but no such consolidation must take place without the written consent of the stockholders representing two thirds of the capital stock of each corporation, and no such consolidation can, in any way, relieve such corporations, or the stockholders thereof, from any and all just liabilities; and in case of such consolidation, due notice of the same must be given, by advertising, for one month, in at least one newspaper in the county where the said mining property is situated, if there is one published therein, and also in one newspaper published in the county where the principal place of business of any of said corporation is.

And when the consolidation is completed, a certificate thereof, containing the manner and terms of such consolidation, must be filed in the office of the county clerk of the county in which the original certificate of incorporation of each of said corporations is filed, and a copy thereof must be filed in the office of the secretary of state; such certificate must be signed by a majority of each board of trustees or directors of the original corporations, and it is their duty to call, within thirty days after the filing of such certificate, a meeting of the stockholders of all of said corporations so consolidated, to elect a board of trustees or directors for the consolidated corporation, for the year thence next ensuing; and to cause notice of the time and place fixed for such meeting to be mailed to each stockholder of each of such corporations at his last known place of residence or business at least ten days before the time fixed for such meeting. The said certificate must also contain all the requirements prescribed by section two hundred and ninety.

§ 588. It is the duty of the secretary of every corporation formed for the purpose of mining, or conducting mining in California, whether such corporation be formed and organized under the laws of the State of California or of any other state, territory, or foreign country, to keep at some place within the State of California an office and in such office to keep a complete set of books showing all receipts and expenditures of such corporation, the sources of such receipts, and the objects of such expenditures, and also all transfers of stock. All books and papers must, at all times during business hours, be open to the inspection of any stockholder. He is entitled to be accompanied by an expert, and to make copies or extracts from any such books or papers. He may, at reasonable hours, examine such mining property, accompanied by an expert, take samples, and make such other examination as he may deem necessary. It is the duty of the directors, on the second Monday of each and every month, to cause to be made an itemized account or balance sheet for the previous month, embracing a full and complete statement of all disbursements and receipts, showing from what sources such receipts were derived, and to whom and for what object or purpose such disbursements or payments were made; also all indebtedness or liabilities incurred or existing at the time, and for what the same were incurred, and the balance of money, if any, on hand. Such account or balance sheet must be verified under oath by the president and secretary, and posted in some conspicuous place in the office of the company. It is the duty of the superintendent, on the first Monday of each month, to file with the secretary an itemized account, verified under oath, showing all receipts and disbursements made by him for the previous month, and for what said disbursements were made. Such account must also contain a verified statement showing the number of men employed under him, and for what purpose, and the rate of wages paid to each. He must attach to such account a full and complete report, under oath, of the work done in said mine, the amount of ore extracted, from what part of mine taken, the amount sent to mill for reduction, its assay value, the amount of bullion received, the amount of bullion shipped to the office of the company or elsewhere, and the amount, if any, retained by the superintendent. It is his duty to forward to the office of the company a full



report, under oath, of all discoveries of ores or mineral-bearing quartz made in said mine, whether by boring, drifting, sinking, or otherwise, together with the assay value thereof. All accounts, reports, and correspondence from the superintendent must be kept in some conspicuous place in the office of said company, open to the inspection of all stockholders.

§ 589. Any stockholder of a corporation formed under the laws of this state for the purpose of mining, is entitled to visit, accompanied by his expert, and examine the mine or mines owned by such corporation, and every part thereof, at any time he may see fit; and when such stockholder applies to the president of such corporation, he must immediately cause the secretary thereof to issue and deliver to such applicant an order, under the seal of the corporation, directed to the superintendent, commanding him to show and exhibit such parts of said mine or mines as the party named in said order may desire to visit and examine. It is the duty of the superintendent, on receiving such order, to furnish such stockholder every facility for making a full and complete inspection of said mine or mines, and of the workings therein, and to accompany said stockholder either in person, or to furnish some person familiar with said mine or mines to accompany him in his visit to and through such mine or mines, and every part thereof. If the superintendent fails to obey such order, such stockholder is entitled to recover, in any court of competent jurisdiction, against the corporation, the sum of one thousand dollars, and traveling expenses to and from the mine, as liquidated damages, together with costs of suit. In case of such refusal, it is the duty of the directors of the corporation forthwith to remove the officer so refusing, and thereafter he must not be employed directly or indirectly by the corporation, nor must any salary be paid to him.

§ 590. In case of the refusal or neglect of the president to cause to be issued by the secretary the order mentioned in section five hundred and eighty-nine, such stockholder is entitled to recover against said president the sum of one thousand dollars and costs, as provided in the last section. If the directors fail to have the reports and accounts current made and posted as provided in section five hundred and eighty-eight, they are liable, either severally or jointly, to an action by any stockholder complaining thereof, and on proof of such refusal or failure, he may recover judgment for actual damages sustained by him, with costs of suit. Each of such defaulting directors is also liable to removal for such neglect.

### **CORPORATION LICENSE TAX LAW.**

As approved March 20, 1905; amended, approved June 13, 1906; amended, approved March 19, 1907; amended, approved March 20, 1907; amended, approved March 19, 1909; amended, approved April 24, 1911; amended, approved May 30, 1913.

SECTION 1. No corporation heretofore or hereafter incorporated under the laws of this state, or of any other state, shall do or attempt to do business by virtue of its charter or certificate of incorporation, in this state, without a state license therefor. *Amended, approved June 13, 1906.*

SEC. 2. It shall be the duty of every corporation incorporated under the laws of this state, and of every foreign corporation now

doing business, or which shall hereafter engage in business in this state, to procure annually from the secretary of state a license authorizing the transaction of such business in this state, and shall pay therefor a license tax as follows:

When the authorized capital stock of the corporation does not exceed ten thousand dollars (\$10,000) the tax shall be ten dollars (\$10.00); when the authorized capital stock exceeds ten thousand dollars (\$10,000) but does not exceed twenty thousand dollars (\$20,000) the tax shall be fifteen dollars (\$15.00); when the authorized capital stock exceeds twenty thousand dollars (\$20,000) but does not exceed fifty thousand dollars (\$50,000) the tax shall be twenty dollars (\$20.00); when the authorized capital stock exceeds fifty thousand dollars (\$50,000) but does not exceed one hundred thousand dollars (\$100,000) the tax shall be twenty-five dollars (\$25.00); when the authorized capital stock exceeds one hundred thousand dollars (\$100,000) but does not exceed two hundred and fifty thousand dollars (\$250,000) the tax shall be fifty dollars (\$50.00); when the authorized capital stock exceeds two hundred and fifty thousand dollars (\$250,000) but does not exceed five hundred thousand dollars (\$500,000) the tax shall be seventy-five dollars (\$75.00); when the authorized capital stock exceeds five hundred thousand dollars (\$500,000) but does not exceed two million dollars (\$2,000,000) the tax shall be one hundred dollars (\$100.00); when the authorized capital stock exceeds two million dollars (\$2,000,000) but does not exceed five million dollars (\$5,000,000) the tax shall be two hundred dollars (\$200.00); when the authorized capital stock exceeds five million dollars (\$5,000,000) the tax shall be two hundred and fifty dollars (\$250.00).

Said license tax or fee shall be due and payable on the first day of July of each and every year to the secretary of state, who shall pay the same into the state treasury. If not paid on or before the hour of four o'clock p. m. of the first day of September next thereafter, the same shall become delinquent and there shall be added thereto, as a penalty for such delinquency, the sum of ten dollars.

The license-tax or fee hereby provided authorizes the corporation to transact its business during the year or for any fractional part of such year in which such license tax or fee is paid. "Year," within the meaning of this act, means from and including the first day of July to and including the thirtieth day of June next thereafter. *Amended, approved March 19, 1907.*

SEC. 2a. At the time of filing a certified copy of articles of incorporation of any corporation when filed on or between the first day of July and the thirtieth day of September, in any year, there shall be paid, in addition to all other fees required by law to be paid to the secretary of state, the full amount of the license tax provided to be paid in section two of this act; when filed on or between the first day of October and the thirty-first day of December, in any year, a sum equal to three fourths of the license tax provided for in section two of this act shall be paid; when filed on or between the first day of January and the thirty-first day of March, in any year, a sum equal to one half of such license tax provided for in section two of this act shall be paid, and when filed on or between the first day of April and the thirtieth day of June, in any year, a sum equal to one fourth of such license tax



provided for in section two of this act shall be paid. Upon receipt of such full or fractional license tax the secretary of state shall issue a license receipt for the full or for the fractional part of the then current fiscal year. *Amended, approved March 19, 1909 (in effect July 1, 1909).*

SEC. 3. The secretary of state shall, on or before the fifteenth day of September in each year, report to the governor of the state a list of all corporations which have become delinquent, as provided in section two of this act, and the governor shall forthwith issue his proclamation, declaring under this act that the charters of such delinquent domestic corporations will be forfeited and the right of such foreign corporations to do business in this state will be forfeited unless payment of said license tax, together with the penalty for such delinquency, as hereinbefore provided, be made to the secretary of state on or before the hour of four o'clock p. m. of the thirtieth day of November next following. *Amended, approved June 13, 1906.*

SEC. 4. Said proclamation shall be filed immediately in the office of the secretary of state, and said secretary of state shall immediately cause a copy of said proclamation to be published in one issue of each of two daily newspapers to be selected by the governor. *Amended, approved June 13, 1906.*

SEC. 5. At the hour of four o'clock p. m. of the thirtieth day of November each year the charters of all delinquent domestic corporations which have failed to pay the said license tax, together with said penalty for such delinquency, shall be forfeited to the State of California, and the right of all delinquent foreign corporations to do business in this state, which have failed to pay said license tax, together with the penalty for such delinquency, shall be likewise forfeited. *Amended, approved June 13, 1906.*

SEC. 6. Any corporation which failed to pay the license tax and penalty required by the act, or any amendment thereof, and of which this is amendatory, may pay all the said license taxes and penalties prescribed by section one of said act and the amendments thereto, and the license taxes and penalties that would have accrued if such corporation had not forfeited its charter or right to do business and any such corporation making such payment shall be relieved from the forfeiture prescribed by the act of which this act is amendatory, and all persons exercising the powers of any such corporation making such payment shall be relieved from the provisions of section nine of said act of which this act is amendatory, and the secretary of state shall immediately after the first day of December in each year, transmit to the county clerk of each county in this state a list of the corporations so paying pursuant to the provisions of this section, which list shall be by said county clerk filed in his office; *provided*, the rehabilitation of a corporation under the provisions of this act shall be without prejudice to any action, defense or right which accrued by reason of the original forfeiture; *and provided*, that in case the name of any corporation which has suffered the forfeiture prescribed by the act of which this act is amendatory, or a name so closely resembling the name of such corporation as will tend to deceive, has been adopted by any other corporation since the date of said forfeiture then said corporation having suffered said forfeiture shall be relieved therefrom pursuant

to the terms of this section of this act only upon the adoption by said corporation seeking revivor of a new name, and in such case nothing in this act contained shall be construed as permitting such corporation to be revived or carry on any business under its former name; and such corporation shall have the right to use its former name or take such new name only upon filing an application therefor with the secretary of state and upon the issuing of a certification to such corporation by the secretary of state setting forth the right of such corporation to take such new name or use its former name as the case may be; *provided, however*, that the secretary of state shall not issue any certificate permitting any corporation to take or use the name of any corporation heretofore organized in this state and which has not suffered the forfeiture prescribed by the act of which this act is amendatory, or to make or use a name so closely resembling the name of such corporation heretofore organized in this state as will tend to deceive. The provisions of title IX, part III of the Code of Civil Procedure in so far as they conflict with this section of this act are not applicable to corporations seeking revivor under this act. *Amended, approved May 30, 1913.*

SEC. 7. All educational, religious, scientific and charitable corporations, and all corporations which are not organized for pecuniary profit, are exempt from the provisions of this act. *Amended, approved June 13, 1906.*

SEC. 8. On or before the thirty-first day of December of each year the secretary of state shall make a list of all domestic corporations whose charters have been so forfeited and of all foreign corporations whose right to do business in this state has been so forfeited, and shall transmit a certified copy thereof to each county clerk in this state, who shall file the same in his office. *Amended, approved June 13, 1906.*

SEC. 9. It shall be unlawful for any corporation, delinquent under this act, either domestic or foreign, which has not paid the license tax or fee, together with the penalty for such delinquency, as in this act prescribed, to exercise the powers of such corporation, or to transact any business in this state, after the thirtieth day of November next following the delinquency. Each and every person who exercises any of the powers of a corporation so delinquent, whether domestic or foreign, which has not paid the license tax, together with the penalty for such delinquency, or who transacts any business for or in behalf of such corporation, after the thirtieth day of November next following the delinquency, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars, and not exceeding one thousand dollars, or by imprisonment in the county jail not less than fifty days nor more than five hundred days, or by both such fine and imprisonment. *Amended, approved June 13, 1906.*

SEC. 10a. In all cases of forfeiture under the provisions of this act, the directors or managers in office of the affairs of any domestic corporation, whose charter may be so forfeited, or of any foreign corporation whose right to do business in this state may be so forfeited, are deemed to be trustees of the corporation and stockholders or members of the corporation whose power or right to do business is forfeited and have full power to settle the affairs of the corporation and to maintain



or defend any action or proceeding then pending in behalf of or against any of said corporations, or to take such legal proceedings as may be necessary to fully settle the affairs of said corporation, and such directors or managers, as such trustees, may be sued in any of the courts of this state by any person having a claim against any of said corporations; *provided, always*, that no action pending against any corporation shall abate thereby, but may be prosecuted to final judgment the same may be enforced by execution with the same force and effect and in like manner as though no forfeiture had occurred; *and provided, further*, that where judgment has been entered against any corporation prior to forfeiture under this act, that notwithstanding execution may be issued thereon and the property of said corporation, or which may come into the hands of any trustees for it may be levied upon, seized and sold to satisfy the same with like force and effect as though such forfeiture has not occurred. *Amended, approved March 20, 1907.*

#### CHAPTER 336.

An act to repeal an act entitled "An act relating to revenue and taxation, providing for a license tax upon corporations and making an appropriation for the purpose of carrying out the objects of this act," approved March 20, 1905, and all acts amendatory thereof or supplemental thereto, and to provide upon what conditions any corporation which has failed to pay any license tax imposed by the provisions of any of the acts hereby repealed may pay the same and be restored to its former corporate status and rights, and also to provide for settling the affairs of any corporation which by reason of failure to pay any tax imposed by any of said acts, has forfeited either its charter or right to do business in this state.

(Approved June 10, 1913. In effect June 30, 1914.)

*The people of the State of California do enact as follows:*

SECTION 1. An act entitled "An act relating to revenue and taxation, providing for a license tax upon corporations and making an appropriation for the purpose of carrying out the objects of this act," approved March 20, 1905, and also all acts amendatory thereof or supplemental thereto, are hereby repealed; *provided, however*, that this act shall not be construed to affect the status of any corporation which has before the taking effect of this act, by reason of failure to pay any tax in accordance with the terms of any of the acts hereby repealed, forfeited either its charter or right to do business in this state. Nor shall this act be construed to relieve any corporation or person from any penalty or penal provision of any of the acts hereby repealed except as herein provided.

SEC. 2. Any corporation which has failed to pay the license tax required by the provisions of any of the acts hereby repealed, may pay to the secretary of state all taxes and penalties prescribed by either of said acts and the license tax and penalties that would have accrued if such corporation had not forfeited its charter or right to do business in this state, and any such corporation making such payments shall thereupon be relieved from the forfeiture prescribed in any of the acts hereby repealed and restored to its former corporate rights and status and the secretary of state shall annually in the month of December transmit to the county clerk of each county a list of the corporations so paying, which list shall be by said county clerk filed in his office; *provided*, the rehabilitation of any such corporation by reason of making such payments shall be without prejudice to any action, defense, or right which accrued by reason of the original forfeiture.



SEC. 3. The powers conferred by the provisions of section 10a of the act hereby repealed (as amended March 20, 1907) upon the directors or managers of any such corporation in office at the time of any such forfeiture are hereby continued in force and said trustees or managers shall notwithstanding the taking effect of this act have full power as trustees to settle the affairs of any such corporation and to maintain or defend any action or proceeding then pending in behalf of or against any such corporation or to take such legal proceedings as may be necessary to fully settle its affairs and such directors or managers as such trustees may be sued in any of the courts of this state by any person having a claim against any such corporation; *provided, always*, that no action pending against any such corporation shall abate thereby but may be brought to final judgment and may be enforced by execution and to the same force and effect and in like manner as though no forfeiture has occurred; *and provided, further*, that where judgment has been entered against any corporation prior to forfeiture under the provisions of any of the acts hereby repealed notwithstanding such forfeiture execution may be issued on any such judgment, and the property of such corporation or which may come into the hands of any trustees for it, may be levied upon, seized and sold to satisfy such judgment with like force and effect as though such forfeiture had not occurred.

SEC. 4. This act shall take effect and be in force June 30, 1914, at twelve o'clock m.

### PROTECTION OF STOCKHOLDERS.

An act to amend an act entitled "An act to protect stockholders and persons dealing with corporations in this state," approved March 29, 1878, and all acts amendatory thereof, and to repeal all laws in conflict therewith.

[Approved March 22, 1905.]

*The people of the State of California, represented in senate and assembly, do enact as follows:*

SECTION 1. Any superintendent, director, secretary, manager, agent, or other officer, of any corporation formed or existing under the laws of this state, or transacting business in the same, and any person pretending or holding himself out as such superintendent, director, secretary, manager, agent, or other officer, who shall wilfully subscribe, sign, endorse, verify, or otherwise assent to the publication, either generally or privately, to the stockholders or other persons dealing with such corporation, or its stock, any untrue or wilfully and fraudulently exaggerated report, prospectus, account, statement of operations, values, business, profits, expenditures or prospects, or other paper or document intended to produce or give, or having a tendency to produce or give, to the shares of stock in such corporation a greater value or less apparent or market value than they really possess, or with the intention of defrauding any particular person or persons, or the public, or persons generally, shall be deemed guilty of a felony, and on conviction thereof shall be punished by imprisonment in state prison or a county jail not exceeding two years, or by fine not exceeding five thousand dollars, or by both.

SEC. 2. All acts and parts of acts in conflict with this act are hereby repealed.

## CIVIL CODE.

§ 309. The directors of corporations must not make dividends, except from the surplus profits arising from the business thereof; nor must they create any debts beyond their subscribed capital stock; nor must they divide, withdraw or pay to the stockholders, or any of them, any part of the capital stock, except as hereinafter provided, nor reduce or increase the capital stock, except as herein specially provided. For a violation of the provisions of this section, the directors under whose administration the same may have happened (except those who may have caused their dissent therefrom to be entered at large on the minutes of the directors at the time, or were not present when the same did happen) are, in their individual or private capacity, jointly and severally liable to the corporation, and to the creditors thereof, to the full amount of the capital stock so divided, withdrawn, paid out, or reduced, or debt contracted; and no statute of limitation is a bar to any suit against such directors for any sums for which they are liable by this section; *provided, however*, that where a corporation has been heretofore or may hereafter be formed for the purpose, among other things, of acquiring, holding, and selling real estate, water, and water rights, the directors of such corporation may, with the consent of stockholders representing two thirds of the capital stock thereof, given at a meeting called for that purpose, divide among the stockholders the land, water or water rights so by such corporation held, in the proportions to which their holdings of such stock at the time of such division entitled them. All conveyances made by the corporation in pursuance of this section must be made and received subject to the debts of such corporation existing at the date of the conveyance thereof. Nothing herein prohibits a division and distribution of the capital stock of any corporation which remains after the payment of all its debts, upon its dissolution, or the expiration of its term of existence.

## PENAL CODE.

§ 560. Every director of any stock corporation who concurs in any vote or act of the directors of such corporation or any of them, by which it is intended, either—

1. To make any dividend, except from the surplus profits arising from the business of the corporation, and in the cases and manner allowed by law; or,

2. To provide, withdraw, or in any manner, except as provided by law, pay to the stockholders, or any of them, any part of the capital stock of the corporation; or,

3. To discount or receive any note or other evidence of debt in payment of any installment actually called in and required to be paid, or with the intent to provide the means of making such payment; or,

4. To receive or discount any note or other evidence of debt, with the intent to enable any stockholder to withdraw any part of the money paid in by him, or his stock; or,

5. To receive from any other stock corporation, in exchange for the shares, notes, bonds, or other evidences of debt of their own corporation, shares of the capital stock of such other corporation, or notes, bonds, or other evidences of debt issued by such other corporation;—is guilty of a misdemeanor.



## TO PREVENT WASTING OF NATURAL GAS.

An act prohibiting the unnecessary wasting of natural gas into the atmosphere; providing for the capping or otherwise closing of wells from which natural gas flows; and providing penalties for violating the provisions of this act.

[Approved March 25, 1911.]

*The people of the State of California, represented in senate and assembly, do enact as follows:*

SECTION 1. All persons, firms, corporations and associations are hereby prohibited from wilfully permitting any natural gas wastefully to escape into the atmosphere.

SEC. 2. All persons, firms, corporations or associations digging, drilling, excavating, constructing or owning or controlling any well from which natural gas flows shall upon the abandonment of such well, cap or otherwise close the mouth of or entrance to the same in such a manner as to prevent the unnecessary or wasteful escape into the atmosphere of such natural gas. And no person, firm, corporation or association owning or controlling land in which such well or wells are situated shall wilfully permit natural gas flowing from such well or wells, wastefully or unnecessarily to escape into the atmosphere.

SEC. 3. Any person, firm, corporation or association who shall wilfully violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one thousand dollars or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

SEC. 4. For the purposes of this act each day during which natural gas shall be wilfully allowed wastefully or unnecessarily to escape into the atmosphere shall be deemed a separate and distinct violation of this act.

SEC. 5. All acts or parts of acts in conflict herewith are hereby repealed.

SEC. 6. This act shall take effect immediately.

## PROTECTION OF OIL AND GAS STRATA.

An act to prevent injury to oil, gas or petroleum-bearing strata or formations by the penetration or infiltration of water therein.

[Approved March 20, 1909.]

*The people of the State of California, represented in senate and assembly, do enact as follows:*

SECTION 1. It shall be the duty of the owner of any well now drilled or that may be drilled in the State of California on lands producing or containing oil, gas or petroleum, to properly case such well or wells, with metal casing in accordance with most approved methods, and to effectually shut off all water overlying or underlying the oil-bearing strata and to effectually prevent any water from penetrating such oil-bearing strata.

SEC. 2. It shall be the duty of the owner of any well referred to in section one of this act, before abandoning the same to withdraw the casing therefrom, and to securely fill such well with clay, earth or cement mortar, or other good and sufficient materials, used alone or in suitable combination, and thoroughly pack and tamp the same into



such well to a point as far above the upper oil-bearing strata as the commissioner hereinafter provided for may decide shall be necessary, and while withdrawing the casing therefrom to effectually and permanently shut off and exclude all water underlying and overlying said oil-bearing strata, and to the satisfaction of the commissioner, whether any oil-bearing strata has been encountered or not.

SEC. 3. It shall be the duty of the owner of any well referred to in section one of this act, to keep a careful and accurate log of the drilling of such well, such log to show the character and depth of the formations passed through or encountered in the drilling of such well, and particularly to show the location and depth of the water-bearing strata, together with the character of the water encountered from time to time, and to show at what point such water was shut off, if at all, and if not to so state in such log, and show the depth at which oil-bearing strata is encountered, the depth and character of the same, and whether all water overlying and underlying such oil-bearing strata was successfully and permanently shut off so as to prevent the percolation or penetration into such oil-bearing strata; said record of well to be kept on file and subject to the inspection of hereinafter mentioned commissioner at any time during business hours.

SEC. 4. The term "owner" as herein used shall mean and include each and every person, persons, partnership, copartnership, association or corporation owning, leasing, managing, operating, drilling or possessing any well mentioned in sections one and two of this act, either as principal or principals, lessee or lessees of such principal or principals, contractor or contractors, and their and each of their employees. The term "oil-bearing strata" as herein used shall mean and include any bed, seam or stratum of rock or sand or other material which contains, includes, or yields earth oil, rock oil, or petroleum oil or natural gas or either of them.

In order to carry out the provision of sections one and two of this act, upon petition of three or more operating oil companies, within the county, it shall be the duty of the board of supervisors of said county to appoint a commissioner who shall be a practical oil man, whose term of office shall be until December 31st of the year following time of appointment or until his successor is appointed.

The duties of said commissioner shall be to see that the provisions of this act shall be enforced.

The compensation of said commissioner shall be fixed by the board of supervisors and shall be paid out of the general county fund.

Upon the filing of a complaint with said commissioner alleging the violation of any of the provisions of sections one or two of this act, it shall be the duty of the hereinbefore mentioned commissioner of the county, if so requested by the complainants, to make or cause to be made, a thorough investigation of the well in question, to determine whether or not any of the provisions of this act have been violated and for such purpose he is hereby empowered to appoint all necessary agents and assistants to conduct such examination and such agents and assistants may enter upon the premises where such well is situated and may take charge of such well for the purpose of making such investigations. If the defendant in the action shall be convicted of a violation of any of the provisions of sections one or two of this act, he shall, in addition to the penalties hereafter set forth, pay all reasonable and proper costs incident to the making of such investigations.

Any well drilled and abandoned, in violation of sections one or two of this act is hereby declared a public nuisance.

If any well, under the provision of sections one or two of this act be declared a public nuisance, it shall be the duty of commissioner of the county in which such well is situated to enter upon the premises, take possession of such well and to abate said nuisance and to take all necessary steps to prevent the percolation or penetration of water into the oil-bearing strata. He shall keep an accurate account of the expense of such work and all expenses so incurred shall be a charge against the owner of such well and a lien upon the same.

Any person violating the provisions of this act shall be guilty of a misdemeanor.

Any owner of any well referred to in sections one or two of this act, who refuses to permit the commissioner to inspect the same or who willfully hinders or delays the commissioner in the performance of his duty is guilty of a misdemeanor.

An "act" to prevent injury to oil, or petroleum-bearing strata, or formations by infiltration or intrusion of water therein, approved March 24, 1903, is hereby repealed.

## USE OF CALIFORNIA MATERIALS IN CALIFORNIA PUBLIC BUILDINGS.

Section 3247 of the Political Code.

"Any person, committee, board, officer, or any other person charged with the purchase, or permitted or authorized to purchase, supplies, goods, wares, merchandise, manufactures, or produce, for the use of the state, or any of its institutions or offices, or for the use of any county or consolidated city and county, or city, or town, shall always, price, fitness and quality being equal, prefer such supplies, goods, wares, merchandise, manufactures, or produce as has been grown, manufactured or produced in this state, and shall next prefer such as have been partially so manufactured, grown or produced in this state. All state, county, city and county, city or town officers, all boards, commissions, or other persons charged with advertising for any such supplies, shall state in their advertisement that such preferences will be made. In any such advertisement no bid shall be asked for any article of a specific brand or mark nor any patent apparatus or appliances, when such requirement would prevent proper competition on the part of dealers in other articles of equal value, utility or merit."

## LANDS UNCOVERED BY RECESSION OF WATER.

An act to amend section 3493m of the Political Code relating to land uncovered by the recession or drainage of the waters of inland lakes.

[Approved April 14, 1911.]

*The people of the State of California, represented in senate and assembly, do enact as follows:*

SECTION 1. Section 3493m of the Political Code is hereby amended to read as follows:

Section 3493m. Any person desiring to purchase any of the lands now uncovered or which may hereafter be uncovered by the recession



or drainage of the waters of inland lakes, and inuring to the state by virtue of her sovereignty, or the swamp and overflowed lands not segregated by the United States, must make an application therefor to the surveyor general of the state, which application must be accompanied by the applicant's affidavit that he is a citizen of the United States, or has declared his intention to become such, a resident of this state of lawful age, that he desires to purchase such lands (describing them by legal subdivisions, or by metes and bounds, if the legal subdivisions are unknown), under the provisions of this article, for his own use and benefit, and for the use and benefit of no other person whomsoever, and that he has made no contract or agreement to sell the same, and that he does not own any state lands which, together with that now sought to be purchased, exceed six hundred and forty acres.

The provisions of this section shall not affect or apply to any land uncovered by the recession or drainage of the waters of any lake or other body of water, the waters of which are so impregnated with minerals as to be valuable for the purpose of extracting therefrom such minerals; but the land uncovered by the recession or drainage of such waters shall be subject to lease for periods of not longer than twenty-five years upon such charges, terms and conditions as may be prescribed by law.

SEC. 2. All acts or parts of acts in conflict herewith are hereby repealed.

SEC. 3. This act shall take effect immediately.

### **EXTRACTION OF MINERALS FROM WATER.**

An act regulating the extraction of minerals from the waters of any stream or lake and prohibiting the extraction of minerals from said waters except under lease from or express permission of the state for a period not exceeding twenty-five years.

[Approved April 14, 1911.]

*The people of the State of California, represented in senate and assembly, do enact as follows:*

SECTION 1. Minerals contained in the waters of any stream or lake in this state shall not be extracted from said waters except upon charges, terms and conditions prescribed by law. No person, firm, corporation or association shall hereafter gain the right to extract or cause to be extracted said minerals from said waters by user, custom, prescription, appropriation, littoral rights, riparian rights, or in any manner other than by lease from or express permission of the state as prescribed by law; and no such lease or permission shall be granted for a longer period than twenty-five years.

SEC. 2. All acts or parts of acts in conflict herewith are hereby repealed.

SEC. 3. This act shall take effect immediately.



**HYDRAULIC MINING.**

Where hydraulic mining can be carried on.

§ 1424. The business of hydraulic mining may be carried on within the State of California wherever and whenever the same can be carried on without material injury to the navigable streams, or the lands adjacent thereto.

Meaning of hydraulic mining.

§ 1425. Hydraulic mining, within the meaning of this title, is mining by the means of the application of water, under pressure, through a nozzle, against a natural bank.

**MINERAL LANDS WITHIN MEANDER LINES OF LAKES AND STREAMS.**

An act relating to lakes and streams, the waters of which contain minerals in commercial quantities; withdrawing state lands within the meander lines thereof from sale; prescribing conditions for taking such minerals from said waters and lands, and providing for the leasing of lands uncovered by the recession of the waters of such lakes and streams.

[Approved April 27, 1911.]

*The people of the State of California, represented in senate and assembly, do enact as follows:*

SECTION 1. There is hereby withdrawn from selection and sale all of the lands embraced within the original meander lines of streams and lakes belonging to the state, the waters of which contain minerals in commercial quantities, and all such lands which may hereafter inure to the state by virtue of its sovereignty, excepting such lands now contracted to be sold under sections 3493<sup>m</sup> to 3493<sup>t</sup>, both inclusive, of the Political Code.

SEC. 2. No person, firm or corporation shall take water from such streams or lakes containing minerals and extract from such water such minerals, except under the terms and conditions of this act; and no person, firm or corporation may lease any land herein referred to and extract therefrom minerals deposited therein or thereon, except under the terms and conditions of this act.

SEC. 3. Every person, firm or corporation taking from the waters of such stream, lakes or lands any minerals, shall file, on or before the last Monday in January of each year, with the county assessor of the county in which any such stream or lake is situated, and also with the state controller, a written statement, duly verified, showing in tons of two thousand pounds, the amount of mineral taken by such person, firm or corporation from such water or land during the year ending December 31st last preceding, and sold by said person, firm or corporation during the said year preceding. Any such person, firm or corporation neglecting or refusing to furnish such statement shall be subject to a fine of one hundred dollars for each day after the said last Monday in January such person, firm or corporation, shall fail to furnish such statement, and, in addition to said fine, shall forfeit all leases granting the right to extract such minerals from said water and said land. Any person who shall, either on behalf of himself or any firm or corporation, verify any such statement which shall be untrue in any material part, shall be deemed guilty of a misdemeanor.

SEC. 4. In case either the assessor or the state controller shall not be satisfied with the statement as returned, he may make an examination of the matters necessary to verify or correct said statement, and, for that purpose, may subpoena witnesses and call for and compel the production of necessary books and papers belonging to the person, firm or corporation making the returns.

SEC. 5. The county assessor of the county shall, after examination and approval by him and the state controller of such statement, proceed to collect from such person, firm or corporation a royalty of twenty-five cents for each ton of two thousand pounds of mineral taken from such water or land by such person, firm or corporation and sold, during the preceding year, in the manner provided for the collection of personal property taxes; *provided*, that the royalty on sodium bicarbonate and on sodium hydrate so taken shall be fifty (50) cents for each ton of two thousand pounds.

SEC. 6. Any person, firm or corporation desiring to lease any lands under this act must make application therefor to the surveyor general of the state, describing the lands sought to be leased by legal subdivisions, or if the legal subdivisions are unknown to the applicant, by metes and bounds. The application must be accompanied by a filing fee of ten dollars.

SEC. 7. Upon the receipt of such application, the surveyor general shall direct the county surveyor of the county in which such lands are situated to survey the land sought to be leased. The county surveyor shall make an actual survey of the land, at the expense of the applicant, establishing the four corners to each quarter section, and connecting the same with a United States survey; and, within thirty days file with the surveyor general a copy, under oath, of his field notes and plat. If the county surveyor fails to make the survey as herein provided, the surveyor general shall immediately direct another person to make the survey at the expense of the applicant, and said survey shall be made and completed within thirty days after the authorization, and the field notes and plats, or copies thereof, shall be sworn to by the surveyor making them and shall be filed with the surveyor general.

SEC. 8. All applications to lease land under this act shall be approved or rejected by the surveyor general within ninety days after the receipt thereof. Immediately after the approval of the application, the surveyor general shall execute and deliver to the applicant a lease of the lands described in the application.

SEC. 9. The lands designated in this act shall be leased at the rate of two dollars and fifty cents per acre, per year, payable yearly in advance. All moneys received as rental for such lands and as royalty upon the mineral product of the waters of the lakes, streams or lands above mentioned, shall be paid into the state school land fund.

SEC. 10. Whenever any lease is delivered to the applicant by the surveyor general, the lessee shall within fifteen days thereafter, present said lease to the treasurer of the State of California, and make payment of the first annual rental. The treasurer shall receive the money and give a receipt therefor. All subsequent annual payments of rental must be paid to the state treasurer, in like manner, within fifteen days after they become due. In case payments are not made as herein provided, the lease and all rights thereunder shall cease and terminate. No lease shall run for more than twenty-five years; *provided*, that upon



the expiration of any lease, such lease may be extended for a period of twenty-five years upon such terms and conditions as may then be prescribed by law.

SEC. 11. All leases made under the authority of this act shall contain a reservation to the state of a right to locate rights of way across such leased lands, subject only to the requirements that the rights of way shall be located in such manner as to cause the least injury to the leased lands across which the same may be located, and that any damage suffered by the lessee of such lands shall be compensated by the lessee of the lands for whose benefit the right of way is required; and every such lease shall be subject to, and shall contain a reservation of, the right of any city and county or incorporated city or town of this state to at any time appropriate and take, under the laws of this state relative to the appropriation of waters, water from any stream or lake tributary to or discharging into any stream or lake of the character mentioned in section one of this act, for any use or uses within the authorized powers of such city and county, or incorporated city or town.

SEC. 12. Leases of rights of way, not exceeding one hundred feet in width, for access to any water or lands designated by this act, may be applied for and granted in the manner herein provided for leasing lands. Such rights of way shall be leased at an annual rental of two dollars and fifty cents an acre, and the same shall be paid as herein provided for leased lands.

SEC. 13. All leases of mineral lands provided for by this act shall cease and terminate on December 31st of any year if the lessee or assigns has not, during the year preceding, extracted or removed from such land and water an amount of mineral equal, in the aggregate, to a minimum of five tons per acre of land leased; *provided*, that when a lease is not delivered to the lessee until after the fifteenth day of January of any year, the minimum tonnage for such year shall be less than five (5) tons, and shall be proportional to the number of days remaining in such year after the completion of the works.

SEC. 14. The surveyor general is hereby authorized to prepare, make, execute and deliver all papers, instruments and documents, and to do any and all things necessary to carry out the provisions of this act.

SEC. 15. The legislature shall have the right to change, from time to time, the royalty per ton of minerals extracted and the annual rental per acre of land, and such change shall apply to all persons, firms or corporations holding leases hereunder; *provided*, that no lease given under this act shall be subject to any change, as to the royalty or rental provided for in said lease, subsequent to the execution of such lease until after ten years from the passage of this act.

SEC. 16. Any lessee hereunder may abandon and surrender a lease at the expiration of any calendar year by filing with the county assessor of the county in which is situated the lands described in said lease, and with the surveyor general and the state controller, notices of said abandonment or surrender; but said notices must be filed at least sixty days before the expiration of said calendar year; and said abandonment and surrender shall not absolve the said lessee from the payment of any royalty which may be due at the end of said fiscal year, for minerals extracted from the waters or lands in this act specified.

SEC. 17. This act shall take effect immediately.



## THE RIGHT OF EMINENT DOMAIN.

An act to amend section twelve hundred and thirty-eight of the Code of Civil Procedure, relating to the purposes for which the right of eminent domain may be exercised, and repealing all acts and parts of acts in conflict with this act.

[Approved April 28, 1911.]

SECTION 1. Section twelve hundred and thirty-eight of the Code of Civil Procedure is hereby amended to read as follows:

§ 1238. Subject to the provisions of this title, the right of eminent domain may be exercised in behalf of the following public uses:

4. Wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, by-roads, plank, and turnpike roads; paths and roads either on the surface, elevated, or depressed, for the use of bicycles, tricycles, motor cycles and other horseless vehicles, steam, electric, and horse railroads, canals, ditches, dams, poundings, flumes, aqueducts and pipes for irrigation, public transportation, supplying mines and farming neighborhoods with water, and draining and reclaiming lands, and for floating logs and lumber on streams not navigable.

5. Roads, tunnels, ditches, flumes, pipes and dumping places for working mines; also outlets, natural or otherwise, for the flow, deposit, or conduct of tailings or refuse matter from mines; also an occupancy in common by the owners or possessors of different mines of any place for the flow, deposit, or conduct of tailings or refuse matter from their several mines.

6. By-roads leading from highways to residences, farms, mines, mills, factories and buildings for operating machinery, or necessary to reach any property used for public purposes.

7. Telegraph and telephone lines, systems and plants.

9. Roads for transportation by traction engines or road locomotives.

10. Oil pipe lines.

11. Roads and flumes for logging or lumbering purposes.

12. Canals, reservoirs, dams, ditches, flumes, aqueducts and pipes and outlets natural or otherwise for supplying, storing and discharging water for the operation of machinery for the purpose of generating and transmitting electricity for the supply of mines, quarries, railroads, tramways, mills, and factories with electric power; and also for the applying of electricity to light or heat mines, quarries, mills, factories, incorporated cities and counties, villages or towns; and also for furnishing electricity for lighting, heating or power purposes to individuals or corporations, together with lands, buildings and all other improvements in or upon which to erect, install, place, use or operate machinery for the purpose of generating and transmitting electricity for any of the purposes or uses above set forth.

SEC. 2. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 3. This act shall take effect immediately.

An act to amend section 1239 of the Code of Civil Procedure, relating to proceedings to exercise the right of eminent domain.

[Approved April 5, 1911.]

SECTION 1. Section 1239 of the Code of Civil Procedure of the State of California, is hereby amended to read as follows:

§ 1239. The following is a classification of the estates and rights in lands subject to be taken for public use:

1. A fee simple, when taken for public buildings or grounds, or for

permanent buildings, for reservoirs and dams, and permanent flooding occasioned thereby, or for an outlet for a flow, or a place for the deposit of débris or tailings of a mine. \* \* \*

### TRIALS INVOLVING MINING CLAIMS.

An act to amend section 595 of the Code of Civil Procedure of this state relating to trials in civil causes.

[Approved May 1, 1911.]

SECTION 1. Section five hundred and ninety-five of the Code of Civil Procedure of California is hereby amended to read as follows:

§ 595. A motion to postpone a trial on the ground of the absence of evidence can only be made upon affidavit showing the materiality of the evidence expected to be obtained; and that due diligence has been used to procure it. A trial shall be postponed when it appears to the court that the attorney of record, party, or principal witness is actually engaged in attendance upon a session of the legislature of this state as a member thereof. The court may require the moving party, where application is made on account of the absence of a material witness, to state upon affidavit the evidence which he expects to obtain; and if the adverse party thereupon admits that such evidence would be given, and that it be considered as actually given on the trial, or offered and overruled as improper, the trial must not be postponed. In actions involving the title to mining claims, or involving trespass for damage upon mining claims, if it be made to appear to the satisfaction of the court that, in order that justice may be done and the action fairly tried on its merits, it is necessary that further developments should be made, underground or upon the surface of the mining claims involved in said action, the court shall grant the postponement of the trial of the action, giving the party a reasonable time in which to prepare for trial and to do said development work.

### LOCATION OF MINING CLAIMS, MILL SITES, AND ASSESSMENT WORK.

An act to amend the Civil Code of California by adding a new title thereto, to be numbered title X, in part IV of division second, consisting of sections 1426, 1426a, 1426b, 1426c, 1426d, 1426e, 1426f, 1426g, 1426h, 1426i, 1426j, 1426k, 1426l, 1426m, 1426n, 1426o, 1426p, 1426q, 1426r, and 1426s, providing for the manner of locating lode and placer mining claims, tunnel rights, mill sites, and prescribing the character and amount of assessment work on mining claims, and providing for proofs of such work, and for the recordation of location notices, and proof of labor, and for the enforcement of contributions from delinquent co-owners of mining claims, and prescribing the duties of county recorders respecting the recording of location notices of, and proofs of labor on, mining claims, tunnel rights, and mill sites, and the fees to be charged therefor, and repealing acts in conflict herewith.

[Approved March 13, 1909.]

*The people of the State of California, represented in senate and assembly, do enact as follows:*

SECTION 1. The Civil Code of the State of California is hereby amended by adding a new title thereto, to be numbered title X, in part IV of second division, consisting of sections 1426, 1426a, 1426b, 1426c,



1426d, 1426e, 1426f, 1426g, 1426h, 1426i, 1426j, 1426k, 1426l, 1426m, 1426n, 1426o, 1426p, 1426q, and 1426r, and 1426s, to read as follows:

§ 1426. Any person, a citizen of the United States, or who has declared his intention to become such, who discovers a vein or lode of quartz, or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposit, may locate a claim upon such vein or lode, by defining the boundaries of the claim, in the manner hereinafter described, and by posting a notice of such location, at the point of discovery, which notice must contain:

*First*—The name of the lode or claim.

*Second*—The name of the locator or locators.

*Third*—The number of linear feet claimed in length along the course of the vein, each way from the point of discovery, with the width on each side of the center of the claim, and the general course of the vein or lode, as near as may be.

*Fourth*—The date of location.

*Fifth*—Such a description of the claim by reference to some natural object, or permanent monument, as will identify the claim located.

§ 1426a. The locator must define the boundaries of his claim so that they may be readily traced, and in no case shall the claim extend more than fifteen hundred feet along the course of the vein or lode, nor more than three hundred feet on either side thereof, measured from the center line of the vein at the surface.

§ 1426b. Within thirty days after the posting of his notice of location upon a lode mining claim, the locator shall record a true copy thereof in the office of the county recorder of the county in which such claim is situated, for which service the county recorder shall receive a fee of one dollar.

§ 1426c. The location of a placer claim shall be made in the following manner: By posting thereon, upon a tree, rock in place, stone, post or monument, a notice of location, containing the name of the claim, name of locator or locators, date of location, number of feet or acreage claimed, such a description of the claim by reference to some natural object or permanent monument as will identify the claim located, and by marking the boundaries so that they may be readily traced; *provided*, that where the United States survey has been extended over the land embraced in the location, the claim may be taken by legal subdivisions and no other reference than those of said survey shall be required and the boundaries of a claim so located and described need not be staked or monumented. The description by legal subdivisions shall be deemed the equivalent of marking.

§ 1426d. Within thirty days after the posting of the notice of location of a placer claim, the locator shall record a true copy thereof in the office of the county recorder of the county in which such claim is situated, for which service the recorder shall receive a fee of one dollar.

§ 1426e. The locator of a tunnel right or location, shall locate his tunnel right or location by posting a notice of location at the face or point of commencement of the tunnel, which must contain:

*First*—The name of the locator or locators.

*Second*—The date of the location.

*Third*—The proposed course or direction of the tunnel.

*Fourth*—A description of the tunnel, with reference to some natural object or permanent monument as shall identify the claim or tunnel right.



§ 1426f. The boundary lines of the tunnel shall be established by stakes or monuments placed along the lines at an interval of not more than six hundred feet from the face or point of commencement of the tunnel to the terminus of three thousand feet therefrom.

§ 1426g. Within thirty days after the posting the notice of location of the tunnel right or location, the locator shall record a true copy thereof, in the office of the county recorder of the county in which such claim is situated, for which service the recorder shall receive a fee of one dollar.

§ 1426h. If at any time the locator of any mining claim heretofore or hereafter located, or his assigns, shall apprehend that his original location notice was defective, erroneous, or that the requirements of the law had not been complied with before filing; or in case the original notice was made prior to the passage of this act, and he shall be desirous of securing the benefit of this act, such locator, or his assigns, may file an additional notice, subject to the provisions of this act; *provided*, that such amended location notice does not interfere with the existing rights of others at the time of posting and filing such amended location notice, and no such amended location notice or the record thereof, shall preclude the claimant, or claimants from proving any such title as he or they may have held under previous locations.

§ 1426i. Where a locator, or his assigns, has the boundaries and corners of his claim established by a United States deputy mineral survey, or a licensed surveyor of this state, and his claim connected with the corner of the public or minor surveys of an established initial point, and incorporates into the record of the claim, the field notes of such survey, and attaches to and files with such location notice a certificate of the surveyor, setting forth: *first*, that said survey was actually made by him, giving the date thereof; *second*, the name of the claim surveyed and the location thereof; *third*, that the description incorporated in the declaratory statement is sufficient to identify; such survey and certificate becomes a part of the record, and such record is *prima facie* evidence of the facts therein contained.

§ 1426j. The proprietor of a vein or lode claim or mine, or the owner of a quartz mill or reduction works, or any person qualified by the laws of the United States, may locate not more than five acres of non-mineral land as a mill site. Such location shall be made in the same manner as hereinbefore required for locating placer claims.

§ 1426k. The locator of a mill site claim or location shall, within thirty days from the date of his location, record a true copy of his location notice with the county recorder of the county in which such location is situated, for which service the recorder shall receive a fee of one dollar.

§ 1426l. The amount of work done or improvements made during each year to hold possession of a mining claim shall be that prescribed by the laws of the United States, to wit: One hundred dollars annually.

§ 1426m. Whenever [a] mine owner, company, or corporation shall have performed the labor and made the improvements required by law upon any mining claim, the person in whose behalf such labor was performed or improvements made, or some one in his behalf, shall within thirty days after the time limited for performing such labor or making such improvements make and have recorded by the county recorder, in books kept for that purpose, in the county in which such mining claim

is situated, an affidavit setting forth the value of labor or improvements made, the name of the claim, and the name of the owner or claimant of said claim at whose expense the same was made or performed. Such affidavit, or a copy thereof, duly certified by the county recorder, shall be prima facie evidence of the performance of such labor or the making of such improvements, or both.

§ 1426n. For recording the affidavit herein required, the county recorder shall receive a fee of fifty cents.

§ 1426o. Whenever a co-owner or co-owners of a mining claim shall give to a delinquent co-owner or co-owners the notice in writing or notice by publication provided for in section 2324, Revised Statutes of the United States, an affidavit of the person giving such notice, stating the time, place, manner of service, and by whom and upon whom such service was made, shall be attached to a true copy of such notice, and such notice and affidavit must be recorded in the office of the county recorder, in books kept for that purpose, in the county in which the claim is situated, within ninety days, after the giving of such notice; for the recording of which said recorder shall receive the same fees as are now allowed by law for recording deeds; or if such notice is given by publication in a newspaper, there shall be attached to a printed copy of such notice an affidavit of the printer or his foreman, or principal clerk of such paper, stating the date of the first, last and each insertion of such notice therein, and where the newspaper was published during that time, and the name of such newspaper. Such affidavit and notice shall be recorded as aforesaid, within one hundred and eighty days after the first publication thereof. The original of such notice and affidavit, or a duly certified copy of the record thereof, shall be prima facie evidence that the delinquent mentioned in section 2324 has failed or refused to contribute his proportion of the expenditure required by that section, and of the service of publication of said notice; *provided*, the writing or affidavit hereinafter provided for is not of record. If such delinquent shall, within the ninety days required by section 2324, aforesaid, contribute to his co-owner or co-owners, his proportion of such expenditures, and also all costs of service of the notice required by this section, whether incurred for publication charges, or otherwise, such co-owner or co-owners shall sign and deliver to the delinquent or delinquents a writing, stating that the delinquent or delinquents by name has within the time required by section 2324 aforesaid, contributed his share for the year -----, upon the ----- mine, and further stating therein the district, county and state wherein the same is situated, and the book and page where the location notice is recorded, if said mine was located under the provisions of this act; such writing shall be recorded in the office of the county recorder of said county, for which he shall receive the same fees as are now allowed by law for recording deeds. If such co-owner or co-owners shall fail to sign and deliver such writing to the delinquent or delinquents within twenty days after such contribution, the co-owner or co-owners so failing as aforesaid shall be liable to the penalty of one hundred dollars, to be recovered by any person for the use of the delinquent or delinquents in any court of competent jurisdiction. If such co-owner or co-owners fail to deliver such writing within said twenty days, the delinquent, with two disinterested persons having personal knowledge of such contribution, may make affidavit setting forth in what manner, the



amount of, to whom, and upon what mine, such contribution was made. Such affidavit, or a record thereof, in the office of the county recorder of the county in which such mine is situated, shall be prima facie evidence of such contribution.

§ 1426p. The record of any location of a mining claim, mill site or tunnel right, in the office of the county recorder, as herein provided shall be received in evidence, and have the same force and effect in the courts of the state as the original notice.

§ 1426q. Copies of the records of all instruments required to be recorded by the provisions of this act, duly certified by the recorder, in whose custody such records are, may be read in evidence, under the same circumstances and rules as are now, or may be hereafter provided by law, for using copies of instruments relating to real estate, duly executed or acknowledged or proved and recorded.

§ 1426r. The provisions of this act shall not in any manner be construed as affecting or abolishing any mining district or the rules and regulations thereof within the State of California.

§ 1426s. The failure or neglect of any locator of a mining claim to perform development work of the character, in the manner and within the time required by the laws of the United States, shall disqualify such locators from relocating the ground embraced in the original location or mining claim or any part thereof under the mining laws, within three years after the date of his original location and any attempted relocation thereof by any of the original locators shall render such location void.

SEC. 2. All acts and parts of acts in conflict with this act, are hereby repealed.

SEC. 3. This act shall take effect and be in force on and after July 1, 1909.

## **REGULATIONS PROVIDED FOR CONTROL OF EXPLOSIVES.**

An act relating to explosives and prescribing regulations for the transportation, storage and selling of explosives, and providing penalties for the violation of this act.

[Approved March 20, 1911.]

*The people of the State of California, represented in senate and assembly, do enact as follows:*

SECTION 1. The term "explosive" or "explosives" whenever used in this act, shall include gunpowder, blasting powder, dynamite, gun-cotton, nitroglycerine or any compound thereof, fulminate, and every explosive substance having an explosive power equal to or greater than black blasting powder, and any substance intended to be used by exploding or igniting the same to produce a force to propel missiles, or rend apart substances, but does not include said substances, or any of them, in the form of fixed ammunition for small arms. The term "person" whenever used herein shall be held to include corporations as well as natural persons; words used in the singular number to include the plural and the plural the singular. The words "explosive manufacturing plant" shall be understood to include all the land used in connection with the manufacture and storage of explosives thereat.

SEC. 2. Except only at an explosive manufacturing plant, no person shall have, keep or store, at any place within the state, any explosives,



unless such explosives are completely enclosed and encased in tight metal, wooden or fibre containers, and, except while being transported, or within the custody of a common carrier pending delivery to consignee, shall be kept and stored in a magazine constructed and operated as hereinafter described, and no person having in his possession or control, any explosives, shall under any circumstances permit or allow any grains or particles thereof to be or remain on the outside or about the containers, in which such explosives are contained.

SEC. 3. Magazines in which explosives may lawfully be stored or kept shall be two classes, as follows:

(a) Magazines of the first class shall consist of those containing explosives exceeding fifty pounds, and shall be constructed wholly of brick, wood covered with iron, or other fireproof material, and must be fireproof, and, except magazines where gunpowder or black blasting powder only is stored, must be bullet proof, and shall have no openings except for ventilation and entrance. The doors of such magazine must be fireproof and bullet proof, and at all times kept closed and locked, except when necessarily opened for the purpose of storing or removing explosives therein or therefrom, by persons lawfully entitled to enter the same. Every such magazine shall have sufficient openings for ventilation thereof, which must be screened in such manner as to prevent the entrance of sparks or fire through the same. Upon each side of such magazine there shall at all times be kept conspicuously posted a sign, with the words, "Magazine," "Explosives," "Dangerous" legibly printed thereon in letters not less than six inches high. No matches, fire or lighting device of any kind, shall at any time be permitted in any such magazine. No package of explosives shall at any time be opened in any magazine, nor shall any open package of explosives be kept therein. No blasting caps, or other detonating or fulminating caps, or detonators, or electric fuzes, shall be kept or stored in any magazine in which explosives are kept or stored, but such caps, detonators or fuzes may be kept or stored in a magazine constructed as above provided which must be located at least one hundred feet from any magazine in which explosives are kept or stored. Magazines in which explosives are kept or stored must be detached, and must be located at least one hundred feet from any other structure.

(b) Magazines of the second class shall consist of a stout wooden box, covered with sheet iron, and not more than fifty pounds of explosives shall at any time be kept or stored therein, and, except when necessarily opened for use by authorized persons, shall at all times be kept securely locked. Upon each such magazine there shall at all times be kept conspicuously posted a sign with the words, "Magazine," "Explosives," "Dangerous" legibly printed thereon.

Nothing in this section contained shall be held to prohibit the keeping or storing of explosives in any tunnel, where no person or persons are employed; *provided, always*, that any tunnel so used for the storage of explosives shall have fireproof doors, which must at all times be kept closed and locked, except when necessarily opened for the purpose of storing or removing explosives therein or therefrom, by persons lawfully entitled to enter the same. The door of such tunnel magazine shall at all times have legibly printed thereon the words, "Magazine," "Explosives," "Dangerous."

SEC. 4. Any person violating or failing to comply with any of the provisions of sections two and three of this act, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars, and not more than one thousand dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment.

SEC. 5. It shall be unlawful to transport, carry or convey, any explosives between any places within this state, on any vessel, car or other vehicle of any description, operated by common carrier, which vessel, car or vehicle is carrying passengers for hire; *provided*, that it shall be lawful to transport on any such vessel, car or vehicle, small arms ammunition in any quantity, and such fuses, torpedoes, rockets or other signal devices, as may be essential to promote safety in operation, and properly packed and marked samples for laboratory examination, not exceeding a net weight of one half pound each, and not exceeding twenty samples at one time, in a single vessel, car or vehicle, but such samples shall not be carried in that part of the vessel, car or vehicle, which is intended for the transportation of passengers for hire; *provided, further*, that nothing in this section shall be construed to prevent the transportation of military or naval forces with their accompanying munitions of war on passenger equipment vessels, cars or vehicles; *provided, further*, that the transportation of explosives on any freight train in this state that carries passengers for hire in a car or caboose attached to the rear of such train, shall not be held or construed to violate the provisions of this act.

SEC. 6. The railroad commission of this state is hereby empowered to make, publish and promulgate such regulations as are not in conflict with this act and as in the judgment of said commission may tend to the safe packing, loading, storage and transportation of the explosives defined by section one of this act.

SEC. 7. It shall be unlawful to transport, carry or convey liquid nitroglycerine, fulminate in bulk, in dry condition, or other like explosive between any places within this state, on any vessel, car or vehicle of any description, operated by common carrier in the transportation of passengers, or articles of commerce by land or water.

SEC. 8. Every package containing explosives or other dangerous articles when presented to a common carrier for shipment shall have plainly marked on the outside thereof, the contents thereon, and it shall be unlawful for any person to deliver for transportation to any common carrier engaged in commerce by land or water, or to cause to be delivered or to carry any explosive or other dangerous article, under any false or deceptive marking, description, invoice, shipping order or other declaration, or without informing the agent of such carrier of the true character thereof, at, or before the time of such delivery or carriage is made.

SEC. 9. Any person who wilfully violates or causes to be violated any of the foregoing provisions of sections 5, 6, 7 and 8, of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished for each offense by fine not exceeding two thousand dollars, or by imprisonment not exceeding eighteen months, or by both such fine and imprisonment in the discretion of the court.

SEC. 10. Every person selling, giving away, or delivering explosives within this state, shall keep at all times an accurate journal or book



of record, in which must be entered from time to time, as it is made, each and every sale, delivery, gift, or other disposition made by such person in the course of business, or otherwise, of any quantity of such explosive substance. Such journal or record book must show in a legible handwriting, to be entered therein at the time, a complete history of each transaction, stating name and quantity of explosives sold, delivered, given away, or otherwise disposed of; name, place of residence, and business of the purchaser or transferee, name of individual to whom delivered, with his or her address. Such journal or record book must be kept by the person so selling, delivering or otherwise disposing of such explosives, in his or their principal office or place of business, at all times subject to the inspection and examination of the police authorities of the state, county or municipality where same is situated, on proper demand therefor. In addition to keeping the record above provided, it shall be unlawful for any person to sell, give away or deliver any explosives within this state, without taking from the person to whom such explosives are sold, given away or delivered within this state, a statement in writing, showing the name and the address of the person to whom such explosives are sold, given away or delivered, and the place where and the purpose for which such explosives are intended for use, which statement shall be signed by the person to whom such explosives are sold, given away or delivered, or his agent, and be witnessed by two witnesses, known to the person selling, giving away or delivering such explosives, to be residents of the county where such explosives, as shown by such statement, are intended for use, who shall certify that the person to whom such explosives are to be sold, given away or delivered is personally known to each of said witnesses, and that to the best of his knowledge and belief, the explosives are required by such person for the uses and purposes set forth in the statement, which said statement shall at all times be kept on file in the principal office or place of business of the person so selling, giving away or delivering such explosives, subject to the inspection of the police authorities of the state, county or municipality where the same is situated, on proper demand made therefor; *provided*, that nothing in this section shall be held to apply to the delivery of explosives to any person or carrier for the purpose of being transported from a place within this state to any other place within this state; *and provided, further*, that nothing in this section contained shall apply to interstate commerce.

Every person selling, giving away or delivering any explosives without complying with all the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars, and not more than two thousand dollars, or by imprisonment of not less than six months, or by both such fine and imprisonment in the discretion of the court.

In addition to such imprisonment and as cumulative penalty such person so offending shall forfeit for each offense, the sum of two hundred and fifty dollars, to be recovered in any court of competent jurisdiction, and the party instituting the action for such forfeiture shall not be entitled to dismiss same, without the consent of the court before which the suit has been instituted; nor shall any judgment recovered be set aside, satisfied or discharged save by order of such court, after full



payment into court, and all moneys so collected must be paid to the party bringing suit.

SEC. 11. No explosives in excess of an amount sufficient for one day's operations shall be taken into any mine or underground workings in this state, and any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in an amount not exceeding five hundred dollars.

SEC. 12. No person, except a peace officer or a person authorized so to do by the owner thereof, or his agent, shall enter any explosive manufacturing plant, magazine or car containing explosives in this state, and any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in an amount not exceeding one thousand dollars or by imprisonment not exceeding three months, or by both such fine and imprisonment.

SEC. 13. No person shall discharge any firearms within five hundred feet of any magazine or of any explosive manufacturing plant, and any person wilfully violating any of the provisions of this section shall be deemed guilty of a misdemeanor and fined not exceeding one thousand dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment.

SEC. 14. No person shall wilfully carry any explosive on his person within this state in any car, vessel or vehicle that carries passengers for hire, or place or carry any explosive while on board any such car, vessel or vehicle, in any hand baggage, roll or container, or place any explosive in any baggage thereafter checked with any common carrier and any person violating any of the provisions of this section shall be deemed guilty of a felony and upon conviction thereof shall be punished by imprisonment in the penitentiary not exceeding two years.

SEC. 15. Nothing in this act contained shall prevent the operation of, or modify, alter, set aside or supersede the provisions of any municipal ordinance respecting the delivery, storing and handling of explosives.

SEC. 16. Nothing in this act contained shall regulate or apply to any shipment of explosives from a point within this state, consigned to a point without this state, over a line or lines of one or more common carriers.

### REGULATION OF HOURS OF EMPLOYMENT.

An act regulating the hours of employment in underground mines, underground workings, whether for the purpose of tunneling, making excavations, or to accomplish any other purpose or design, or in smelting and reduction works.

[Approved May 30, 1913.]

*The people of the State of California do enact as follows:*

SECTION 1. That the period of employment for all persons who are employed or engaged in work in underground mines in search of minerals, whether base or precious, or who are engaged in such underground mines for other purposes, or who are employed or engaged in any other underground workings whether for the purpose of tunneling, making excavations or to accomplish any other purpose or design, or who are employed in smelters and other institutions for the reduction or refining of ores or metals, shall not exceed eight hours within

any twenty-four hours, and the hours of employment in such employment or work day shall be consecutive, excluding, however, any intermission of time for lunch or meals; *provided*, that in case of emergency where life or property is in imminent danger, the period may be a longer time during the continuance of the exigency or emergency.

SEC. 2. Any person who shall violate any provision of this act, and any person who as foreman, manager, director or officer of a corporation, or as the employer or superior officer of any person, shall command, persuade or allow any person to violate any provision of this act, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00) or by imprisonment of not more than three months. And the court shall have discretion to impose both fine and imprisonment as herein provided.

SEC. 3. All acts and parts of acts inconsistent with this act are hereby repealed.

### PROVIDING FOR MINE EXITS.

An act requiring compensation for causing death by wrongful act, neglect or default.

[Approved April 26, 1862.]

SECTION 1. It shall not be lawful for any corporation, association, owner, or owners of any quartz mining claim within the State of California, where such corporation, association, owner or owners employ twelve men daily, to sink down into such mine or mines any perpendicular shaft or incline beyond a depth from the surface of three hundred feet without providing a second mode of egress from such mine, by shaft or tunnel, to connect with the main shaft at a depth of not less than one hundred feet from the surface.

SEC. 2. It shall be the duty of each corporation, association, owner or owners of any quartz mine or mines in this state, where it becomes necessary to work such mines beyond the depth of three hundred feet, and where the number of men employed therein daily shall be twelve or more, to proceed to sink another shaft or construct a tunnel so as to connect with the main working shaft of such mine as a mode of escape from underground accident, or otherwise. And all corporations, associations, owner or owners of mines, as aforesaid, working at a greater depth than three hundred feet, not having any other mode of egress than from the main shaft, shall proceed as herein provided.

SEC. 3. When any corporation, association, owner or owners of any quartz mine in this state shall fail to provide for the proper egress, as herein contemplated, and where any accident shall occur, or any miner working therein shall be hurt or injured, and from such injury might have escaped if the second mode of egress had existed, such corporation, association, owner or owners of the mine where the injuries shall have occurred shall be liable to the person injured in all damages that may accrue by reason thereof; and an action at law in a court of competent jurisdiction may be maintained against the owner or owners of such mine, which owners shall be jointly or severally liable for such damages. And where death shall ensue from injuries received from any negligence on the part of the owners thereof, by reason of their



failure to comply with any of the provisions of this act, the heirs or relatives surviving the deceased may commence an action for the recovery of such damages.

SEC. 4. This act shall take effect and be in force six months from and after its passage.

### TELEPHONE SYSTEM IN MINES.

An act providing for the establishment and maintenance of a telephone system in mines and prescribing a penalty for the violation thereof.

[Approved June 13, 1913.]

*The people of the State of California do enact as follows:*

SECTION 1. In all mines operated and worked in this state where a depth of more than five hundred feet underground has been reached a telephone system must be established, equipped and maintained by the owners or lessees thereof with stations at each working level below the depth aforesaid, communicating with a station thereof on the surface of any such mine.

SEC. 2. The failure or refusal of any owner or lessee to install or maintain such telephone system shall be deemed guilty of misdemeanor and punished accordingly.

### FENCING ABANDONED SHAFTS.

An act to provide for the covering or fencing of abandoned mining shafts, pits or excavations, the penalty, and also the penalty for removing or destroying the covering or fencing from same.

[Approved March 20, 1903.]

*The people of the State of California, represented in senate and assembly, do enact as follows:*

SECTION 1. All abandoned mining shafts, pits or other abandoned excavations dangerous to passers-by or live stock shall be securely covered or fenced, and kept so, by the owners of the land or persons in charge of the same, on which such shafts, pits or other excavations are located. Any person or persons failing to comply with the provisions of this section shall be deemed guilty of a misdemeanor.

SEC. 2. All abandoned mining shafts, pits or other excavations situated on unoccupied public lands may be securely covered or fenced by order of the board of supervisors of the county wherein the same is situated, and it shall be the duty of the board of supervisors to keep the same securely fenced or covered whenever it appears to them, by proof submitted, that the same is dangerous or unsafe to man or beast. The cost of said covering or fencing to be a county charge.

SEC. 3. Any person or persons maliciously removing or destroying any covering or fencing placed around or over any shaft, pit or other excavation, as hereinbefore provided, shall be deemed guilty of a misdemeanor.

SEC. 4. This act shall take effect six months from the day of passage.



**MINE REGULATIONS—COAL MINES.**

[Stats. 1873-74, page 726.]

SECTION 1. The owner or agent of every coal mine shall make or cause to be made an accurate map or plan of the workings of such coal mine, on a scale of one hundred feet to the inch.

SEC. 2. A true copy of which map or plan shall be kept at the office of the owner or owners of the mine, open to the inspection of all persons, and one copy of such map or plan shall be kept at the mines by the agent or other person having charge of the mines, open to the inspection of the workmen.

SEC. 3. The owner or agent of every coal mine shall provide at least two shafts or slopes, or outlets, separated by natural strata of not less than one hundred and fifty feet in breadth, by which shafts, slopes, or outlets distinct means of ingress and egress are always available to the persons employed in the coal mine; *provided*, that if a new tunnel, slope or shaft will be required for the additional opening, work upon the same shall commence immediately after the passage of this act, and continue until its final completion, with reasonable dispatch.

SEC. 4. The owner or agent of every coal mine shall provide and establish for every such mine an adequate amount of ventilation, of not less than fifty-five cubic feet per second of pure air, or thirty-three hundred feet per minute, for every fifty men at work in such mine, and as much more as circumstances may require, which shall be circulated through to the face of each and every working place throughout the entire mine, to dilute and render harmless and expel therefrom the noxious, poisonous gases, to such an extent that the entire mine shall be in a fit state for men to work therein, and be free from danger to the health and lives of the men by reason of said noxious and poisonous gases, and all workings shall be kept clear of standing gas.

SEC. 5. To secure the ventilation of every coal mine, and provide for the health and safety of the men employed therein, otherwise and in every respect, the owner, or agent, as the case may be, in charge of every coal mine, shall employ a competent and practical inside overseer, who shall keep a careful watch over the ventilating apparatus, over the air ways, the traveling ways, the pumps and sumps, the timbering, to see as the miners advance in their excavations that all loose coal, slate, or rock overhead is carefully secured against falling; over the arrangements for signaling from the bottom to the top, and from the top to the bottom of the shaft or slope, and all things connected with the [and] appertaining to the safety of the men at work in the mine. He, or his assistants, shall examine carefully the workings of all mines generating explosive gases, every morning before the miners enter, and shall ascertain that the mine is free from danger, and the workmen shall not enter the mine until such examination has been made and reported, and the cause of danger, if any, be removed.

SEC. 6. The overseer shall see that hoisting machinery is kept constantly in repair and ready for use, to hoist the workmen in or out of the mine.

SEC. 7. The word "owner" in this act shall apply to lessee as well.

SEC. 8. For any injury to person or property occasioned by any violation of this act, or any wilful failure to comply with its pro-

visions, a right of action shall accrue to the party injured for any direct damage he or she may have of the overseer of any coal mine, he shall be liable to conviction of misdemeanor, and punished according to law; *provided*, that if such wilful failure or negligence is the cause of the death of any person, the overseer, upon conviction, shall be deemed guilty of manslaughter.

SEC. 10. All boilers used for generating steam in and about coal mines shall be kept in good order, and the owner or agent thereof shall have them examined and inspected by a competent boilermaker, as often as once in three months.

SEC. 11. This act shall not apply to opening a new coal mine.

### WEEKLY DAY OF REST.

[Stats. 1893, page 54.]

SECTION 1. Every person employed in any occupation of labor shall be entitled to one day's rest therefrom in seven, and it shall be unlawful for any employer of labor to cause his employees, or any of them, to work more than six days in seven; *provided, however*, that the provisions of this section shall not apply to any case of emergency.

SEC. 2. For the purposes of this act, the term day's rest shall mean and apply to all cases, whether the employee is engaged by the day, week, month, or year, and whether the work performed is done in the day or night time.

SEC. 3. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor.

### MINERS' HOSPITAL.

[Stats. 1881, page 81.]

SECTION 1. There shall be erected as soon as conveniently may be, upon some suitable site, a public hospital and asylum for the reception, care, medical, and surgical treatment, and relief of the sick, injured, disabled, and aged miners which shall be known as the "California State Miners' Hospital and Asylum."

\* \* \*

SEC. 5. Indigent miners shall be charged for medical attendance, surgical operations, board, and nursing while residents in the hospital and asylum, no more than the actual cost; paying patients, whose friends can pay their expenses, shall pay according to the terms directed by the trustees.

SEC. 6. The several boards of supervisors of counties, or any constituted authority in the state having care and charge of any indigent sick, or aged person or persons, if satisfactorily proven by them to have been miners, shall have authority to send to the "California State Miners' Hospital and Asylum" such persons, and they shall be severally chargeable with the expenses of the care, maintenance, and treatment, and removal to and from the hospital and asylum of such patients.



## LARCENY OF GOLD-DUST AND AMALGAM.

An act supplementary to an act entitled "An act concerning crimes and punishments," passed April 16, 1850.

[Approved March 20, 1872; 1871-2, 435.]

SECTION 1. Every person who shall feloniously steal, take and carry away, or attempt to take, steal, and carry from any mining claim, tunnel, sluice, under-current, riffle-box, or sulphurate (sulphuret) machine any gold-dust, amalgam, or quicksilver, the property of another, shall be deemed guilty of grand larceny, and upon conviction thereof shall be punished by imprisonment in the state prison for any term of not less than one year nor more than fourteen years.

SEC. 2. This act shall be in force from and after its passage.

## CALIFORNIA MINE BELL SIGNALS.

An act to establish a uniform system of mine bell signals, to be used in all the mines operated in the State of California, and for the protection of miners.

[Approved March 8, 1893.]

SECTION 1. Every person, company, corporation, or individual, operating any mine within the State of California—gold, silver, copper, lead, coal, or any other metal or substance—where it is necessary to use signals by means of bell or otherwise, for shafts, inclines, drifts, crosscuts, tunnels, and underground workings, shall, after the passage of this bill, adopt, use, and put in force the following system or code of mine bell signals, as follows:

1 bell, to hoist. (See Rule 2.)

1 bell, to stop if in motion.

2 bells, to lower. (See Rule 2.)

3 bells, man to be hoisted; run slow. (See Rule 2.)

4 bells, start pump if not running, or stop pump if running.

1—3 bells, start or stop air compressor.

5 bells, send down tools. (See Rule 4.)

6 bells, send down timbers. (See Rule 4.)

7 bells, accident; move bucket or cage by verbal orders only.

1—4 bells, foreman wanted.

2—1—1 bells, done hoisting until called.

2—1—2 bells, done hoisting for the day.

2—2—2 bells, change buckets from ore to water, or vice versa.

3—2—1 bells, ready to shoot in the shaft. (See Rule 3.)

Engineer's signal, that he is ready to hoist, is to raise the bucket or cage two feet and lower it again. (See Rule 3.)

Levels shall be designated and inserted in notice hereinafter mentioned. (See Rule 5.)

SEC. 2. For the purpose of enforcing and properly understanding the above code of signals, the following rules are hereby established:

*Rule 1*—In giving signals make strokes on bell at regular intervals. The bar (—) must take the same time as for one stroke of the bell, and no more. If timber, tools, the foreman, bucket or cage are wanted to stop at any level in the mine, signal by number of strokes on the



bell, number of the level first before giving the signal for timber, tools, etc. Time between signals to be double bars (— —). Examples:

6— —5 would mean stop at sixth level with tools.

4— —1—1—1— —1, would mean to stop at fourth level, man on, hoist.

2— —1—4 would mean stop at second level with foreman.

*Rule 2*—No person must get off or on the bucket or cage while the same is in motion. When men are to be hoisted give the signal for men. Men *must* then get on bucket or cage, *then* give the signal to hoist. Bell cord must be in reach of man on the bucket or cage at stations.

*Rule 3*—After signal "Ready to shoot in shaft," engineer must give his signal when he is ready to hoist. Miners must then give the signal of "Men to be hoisted," then "spit fuse," get into the bucket, and give the signal to hoist.

*Rule 4*—All timbers, tools, etc., "longer than the depth of the bucket," to be hoisted or lowered, must be securely lashed at the upper end to the cable. Miners must know they will ride up or down the shaft without catching on rocks or timbers and be thrown out.

*Rule 5*—The foreman will see that one printed sheet of these signals and rules for each level and one for the engine-room are attached to a board not less than twelve inches wide by thirty-six inches long, and securely fasten the board up where signals can be easily read at the places above stated.

*Rule 6*—The above signals and rules must be obeyed. Any violation will be sufficient grounds for discharging the party or parties so doing. No person, company, corporation, or individuals operating any mine within the State of California, shall be responsible for accidents that may happen to men disobeying the above rules and signals. Said notice and rules shall be signed by the person or superintendent having charge of the mine, who shall designate the name of the corporation or the owner of the mine.

SEC. 3. Any person or company failing to carry out any of the provisions of this act shall be responsible for all damages arising to or incurred by any person working in said mine during the time of such failure.

SEC. 4. This act shall take effect immediately.

### MINER'S INCH DEFINED.

An act fixing and defining a miner's inch of water.

[Approved March 23, 1901.]

*The people of the State of California, represented in senate and assembly, do enact as follows:*

SECTION 1. The standard miner's inch of water shall be equivalent or equal to one and one half cubic feet of water per minute, measured through any aperture or orifice.

SEC. 2. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

SEC. 3. This act shall be in effect and force sixty days from and after its passage.

## FORMS FOR LOCATION NOTICES.

The following forms for mineral location notices have been found to fill the requirements of the statutes:

### NOTICE OF QUARTZ LODE LOCATION.

*Notice is hereby given, That I, \_\_\_\_\_,*  
a citizen of the United States, have discovered a vein of rock in place, carrying gold, silver, copper, and other valuable deposits, upon which I have erected a discovery monument and posted this notice, as herein-after set forth; that in accordance with the provision of Chapter 6, Title 32 of the Revised Statutes of the United States and the laws of the State of California, I hereby claim fifteen hundred linear feet of said vein, measured thereon as hereinafter set forth. Said discovery was made on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_. Immediately upon making the same, and on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, I erected at the point of discovery, a substantial monument, consisting of a mound of rocks and \_\_\_\_\_, and posted thereon this notice.

The \* general course of said vein is \_\_\_\_\_ and \_\_\_\_\_. I claim in length thereon \_\_\_\_\_ feet \_\_\_\_\_ and \_\_\_\_\_ feet \_\_\_\_\_ from said discovery monument. I also claim three hundred feet on each side of the center of the vein. This vein or claim shall be known as and called the \_\_\_\_\_. It is situated in \_\_\_\_\_ Mining District, and in † Sec. \_\_\_\_\_, Tp. \_\_\_\_\_, R. \_\_\_\_\_, B. and M., in \_\_\_\_\_ County, California, and the discovery monument \_\_\_\_\_ being placed about § \_\_\_\_\_ from \_\_\_\_\_.

That the following is a description of said location as marked on the ground: ‡ commencing at the \_\_\_\_\_ of said claim, a \_\_\_\_\_ from which initial point the discovery monument is distant about \_\_\_\_\_ feet in a \_\_\_\_\_ direction; \_\_\_\_\_ thence || \_\_\_\_\_.

Dated and posted on the ground, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Witness \_\_\_\_\_

\_\_\_\_\_  
Locator.

\*Make this description in accordance with the facts, as "The general course of said vein is north and south. I claim in length thereon 500 feet north and 1,000 feet south from said discovery monument."

†If the claim is upon surveyed land, give the section, township and range, if possible. This is not required by law, but makes a much better description.

§Here refer to some natural object or permanent monument so as to identify the locality of the claim, in compliance with section 2324, Revised Statutes U. S. A road, house, tree, known mountain or peak, government corner, mill, or known mining claim, are such objects or monuments. As, "About one mile directly east from John Doe's quartz mill and 400 rods west from the Last Hope mine," etc.

‡Here state: "Commencing at the N. E. corner of said claim, a mound of rocks 4 ft. high," or at any other corner or point in the boundary; give the distance and direction from this initial monument to the discovery monument, and then locate the discovery with reference to some natural object or permanent monument.

||Here follows a description of the claim from the initial monument. For instance: "Thence 600 ft. northwesterly to the N. W. corner of said claim, at which point is a mound of rocks 2½ ft. high, marked so-and-so (if marked); thence 1500 ft. southwesterly to the S. W. corner of said claim, being a mound of rocks," etc.; so going around the claim to the point of beginning.

## NOTICE OF LOCATION OF PLACER CLAIM.

Notice is hereby given; That \_\_\_\_\_  
 citizen\_\_\_ of the United States, h\_\_\_ this \_\_\_\_\_ day of  
 \_\_\_\_\_, 19\_\_\_, discovered a valuable placer deposit within  
 the limits of this claim; that by virtue of said discovery, \_\_\_\_\_  
 \_\_\_\_\_ ha\_\_\_ located, and hereby locate and  
 claim the following described land, situate in \_\_\_\_\_ Mining District,  
 \_\_\_\_\_ County, California, to wit: \* \_\_\_\_\_  
 \_\_\_\_\_ of section \_\_\_\_\_, Township \_\_\_\_\_,  
 Range \_\_\_\_\_, B. and M., containing \_\_\_\_\_ acres.†  
 Said claim is hereby named \_\_\_\_\_ Placer Claim.  
 Said claim is marked upon the ground as follows: ‡ \_\_\_\_\_

This notice is posted on a mound of rocks at the point of discovery,  
 situated § \_\_\_\_\_

Dated and posted on the ground, this \_\_\_ day of \_\_\_\_\_, 19\_\_\_

\_\_\_\_\_  
 Locator.

\*The statute provides that the locator must give "a description of the claim by reference to legal subdivisions of sections, if the location is made in conformity with the public surveys; otherwise a description with reference to some natural object or permanent monument as will identify the claim."

†When not described by legal subdivisions, the description should conform to that contained in the final certificate of location of a lode claim.

‡The statute provides that, whether described by legal subdivisions or not, the location shall be marked by the locator on the ground, and as the affidavit to be filed later is not required to contain a description of the claim, we think this notice should state how the location is marked; as, for instance, "At the N. E. corner of said tract a mound of rocks 3 ft. high, marked so-and-so (if marked), and at the N. W. corner a stake in a mound of rocks, marked," etc., and so on for each monument enclosing the claim.

§Here state where the discovery is located, as, for instance, "20 ft. S. W. of the N. E. corner monument."

||A duplicate of this notice must be filed for record with the county recorder within thirty days from the discovery; and the locator is allowed thirty days to mark his location on the ground.

The foregoing form of placer notice may be used for location of all deposits which are classed under placer laws.



EXTRACTS FROM BULLETIN NO. 61, U. S. BUREAU OF MINES.

## ABSTRACT OF CURRENT DECISIONS ON MINES AND MINING.

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### Discovery Necessary.

There can be no valid location of a mining claim until a sufficient actual discovery of mineral is made on the claim and no question of the doing of annual assessment work is involved, as it is only after such a discovery, when actual possession is no longer necessary to protect the location against subsequent locators, that annual assessment work is essential to prevent a forfeiture.

(*Borgwardt vs. McKittrick Oil Co.*, 130 Pac. 417 (Cal.), March, 1913.)

### Character of Minerals Subject to Location.

In a contest between a placer and a lode locator a court has jurisdiction to determine whether the mineral land in controversy was of a character which entitled it to be located as a placer mine, or whether it could only be entered as a lode mining claim, for the reason that if the land was not subject to location as a placer claim the placer claimant obtained no possessory right thereto.

(*San Francisco Chemical Co. vs. Duffield*, 201 Fed. 830, p. 834, November, 1912.)

### Lands Already Appropriated.

No right to a mining claim can be initiated while the ground is in possession of another who has the right to its possession under an earlier lawful location, nor can such a claim be initiated by forcible or fraudulent entry upon land in possession of one who has no right either to the possession or to the title.

(*San Francisco Chemical Co. vs. Duffield*, 201 Fed. 830, p. 834.)

### Marking Boundaries.

The marking upon the ground of the boundaries of a mining location should be made so certain and so plain that any one prospecting in the same locality would have no trouble in locating the exact ground claimed; but any markings on the ground by stakes, monuments, mounds, and written notices whereby the boundaries can be readily traced, are sufficient, and if a third party is intending to locate can readily ascertain from what has been done by the prior locator, the extent and boundaries of the existing location, then the statute has been sufficiently complied with.

(*Madeira vs. Sonoma Magnesite Co.*, 130 Pac. 175 (Cal.), December, 1912.)

### Failure to Mark Boundaries.

A locator of a mining ground who failed to definitely mark the boundaries of his location and left his claim unmarked from September, 1905, to June, 1906, and knew that another person had located a part of the same ground and performed a large amount of labor

thereon without knowledge of such prior location, did not act within a reasonable time in definitely marking his claim on the ground so that its boundaries could be readily traced.

(*Madeira vs. Sonoma Magnesite Co.*, 130 Pac. (Cal.), December, 1912.)

### Excessive Ground.

A mining location duly made according to the mining laws is not invalid where the locator includes within the boundaries of his claim more than the law permits, as in such case he is entitled to hold to the limit which the law authorizes within the limits he has laid out, and the territory embraced within his boundaries in excess of such limits is to be rejected; but where a locator relies upon the corners established and marked out, a different rule governs, and if the courses are so widely separated from where they should be as to bear no relation to the lode, and so remote as to justify reasonable inference that they were not intended to apply to the lode in question, they would add little if any force to the claim that the law had been complied with, and especially so where the notice once posted at the discovery point had disappeared or where the lode line was not distinctly marked.

(*Madeira vs. Sonoma Magnesite Co.*, 130 Pac. 175 (Cal.), December, 1912.)

### Entry on Existing Location.

A provisional location can not be made upon an existing mining claim with the intention on the part of the locator that the validity of such provisional location depends on whether or not the prior locator fails to do the annual assessment work and thereby forfeits the existing claim.

(*Rooney vs. Barnette*, 200 Fed. 700, p. 708, October, 1912.)

### Placer Claims.

By a placer claim is meant ground within defined boundaries containing mineral in its earth, sand or gravel—ground that includes valuable deposits not in place, nor fixed in rock, but which are in a loose state and that may usually be collected by washing or amalgamation without milling.

(*San Francisco Chemical Co. vs. Duffield*, 201 Fed. 830, p. 836, November, 1912.)

### Placer and Lode Claims—Rock Phosphate.

Calcium phosphate or rock phosphate found in place having a dip and strike, firmly fixed in the mass of a mountain and occurring between strata of limestone, chert, and shale, where the line of demarcation between veins of such phosphate rock and wall rock of limestone or shale is well defined and distinct, and where the distinction between such phosphate rock, having commercial value, is readily determined by visual inspection, is subject to location under the mining laws only as a vein or lode and not as a placer claim.

(*San Francisco Chemical Co. vs. Duffield*, 201 Fed. 830, p. 836, November, 1912.)

## PUBLICATIONS OF THE CALIFORNIA STATE MINING BUREAU.

Publications of this Bureau will be sent on receipt of the requisite amount and postage. Only stamps, coin or money orders will be accepted in payment.

Money orders should be made payable to the STATE MINING BUREAU.

*Personal checks will not be accepted.*

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## DETERMINATION OF MINERAL SAMPLES.

NOTE.—Samples, *limited to three at one time*, of any mineral found in the State, may be sent to the Bureau for identification, and the same will be classified free of charge. No samples will be determined if received from points outside of the State. It must be understood that no assay or quantitative determinations will be made. Samples should be in lump form if possible, and marked plainly with the name of sender on outside of package, etc. No samples will be received unless delivery charges are prepaid. A letter should accompany sample, giving locality where mineral was found and the nature of the information desired.

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## APPENDIX.

NOTE.—The Blue Sky Law and the Water Commission Act, both of which were enacted into law at the 1913 session of the California State Legislature, but which have been made inoperative by the referendum and are to be submitted to the vote of the people at the next general election, are herewith appended because these laws are of vital interest to the mining industry.

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**"BLUE SKY LAW."**

## CHAPTER 353.

An act to define investment companies, investment brokers, and agents; to provide for the regulation, supervision and licensing thereof; to provide penalties for the violation thereof; to create the office of commissioner of corporations, and making an appropriation therefor.

(Approved May 28, 1913.)

*The people of the State of California do enact as follows:*

SECTION 1. This act shall be known as the "investment companies act."

SEC. 2. (a) The term "investment company," when used in this act, includes every private corporation, association, copartnership and company, which shall within this state, sell, offer for sale, negotiate for the sale of or take subscriptions for any stock, stock certificate, bond or other evidence of indebtedness of any kind or character, issued or to be issued by itself, other than promissory notes not offered to the public by the maker thereof.

(b) The term "security," when used in this act, includes the stock, stock certificates, bonds, and other evidences of indebtedness, other than promissory notes not offered to the public by the maker thereof, of an investment company.

(c) The term "investment broker," when used in this act, includes every corporation, association, copartnership, company and person who shall within this state regularly engage in the business of selling, offering for sale or negotiating for the sale, as agent or contractor, of any security of more than one investment company. The term "contractor" means any one who undertakes to sell securities for an investment company for a commission or other consideration.

(d) The term "agent," when used in this act, includes every corporation, association, copartnership, company and person who shall within this state sell, offer for sale, negotiate for the sale of or take subscriptions for any security of an investment company, either as an employee on a salary basis or for a commission, if acting either for the investment company or an investment broker.

(e) The term "sale," when used in this act, means the original transfer of title of its own securities from an investment company for any valuable consideration.

SEC. 3. This act shall not apply to corporations, associations, copartnerships, companies, firms and individuals now or hereafter subject to the jurisdiction or authority of the railroad commission, nor to corporations, associations, copartnerships, companies, firms and individuals after they have secured from the state banking department, the insurance commissioner or the bureau of building and loan supervision a certificate of authority or license to do business within this state, nor to corporations, associations, copartnerships or companies, subject to federal regulation or not organized for profit, nor to mutual water companies and irrigation districts, nor to the stocks, stock certificates, bonds or other evidences of indebtedness of such corporations, associations, copartnerships, companies, firms or individuals.

SEC. 4. (a) Before selling, offering for sale, negotiating for the sale, or taking subscriptions for, any security of any kind or character, each investment company shall file in the office of the commissioner of corporations of this state, an application for permission so to do, together with a filing fee, as hereinafter prescribed, an itemized statement of its financial condition, in such form and detail as the commissioner of corporations may prescribe, a copy of all contracts which it proposes to make with or sell to the public, a certified copy of its charter, articles of incorporation or articles of association and all amendments thereto, and such additional information pertaining thereto as the commissioner of corporations may, from time to time, prescribe. Said filing fee shall be five dollars if the par or face value of said security amounts to twenty-five thousand dollars or less; ten dollars if the par or face value of said security amounts to over twenty-five thousand dollars and not over fifty thousand dollars; fifteen dollars if the par or face value of said security amounts to over fifty thousand dollars and not over seventy-five thousand dollars; twenty dollars if the par or face value of said security amounts to over seventy-five thousand dollars and not over one hundred thousand dollars; and twenty-five dollars if the par or face value of said security amounts to over one hundred thousand dollars.

(b) If the investment company does not desire to sell its securities to the public the commissioner of corporations may make his written finding to that effect. Upon the filing of said finding the investment company and its securities shall be exempt from the provisions of this act until the commissioner of corporations makes and files his order setting aside said finding. The commissioner of corporations shall have power to make his order setting aside said finding if he finds that the investment company is selling its securities to the public, or for other good cause.

(c) If such company is organized or created under or by virtue of the laws of any other state, territory or government, it shall also file in the office of the commissioner of corporations a certified copy of the law or laws under which it is organized or incorporated, and all amendments thereto, and also, in such form as the commissioner of corporations may prescribe, its written instrument, irrevocable, appointing the commissioner of corporations or his successor in office its true and lawful attorney, upon whom all process in any action or proceeding against it may be served with the same effect as if said company were organized or created under the laws of this state and had been lawfully served with process therein. Service upon such attorney shall be deemed personal service upon such company. The commissioner of corporations shall forthwith forward by mail, postage prepaid to the person designated by such company by written instrument filed with the commissioner of corporations at the address given in said instrument, or, in case no such instrument has been filed, to the secretary of such company at its last known post-office address, a copy of every process served upon him under the provisions of this section. For each copy of process, the commissioner of corporations shall collect the sum of two dollars, which shall be paid by the plaintiff or moving party at the time of such service, to be recovered by him as part of his taxable costs, if he succeeds in the suit or proceedings. Service shall not be deemed



complete until said fee has been paid, and said copy of process mailed as hereinbefore directed.

SEC. 5. It shall be the duty of the commissioner of corporations to examine the statement and other information so filed, and he may, if he deems it advisable, make, or have made, at applicant's cost as hereinafter in this act specified, a detailed examination, audit and investigation of the investment company's affairs, providing that the investment company may at its option, in writing, refuse to have such examination, audit or investigation made, whereupon the commissioner of corporations must reject the application. If he finds that the proposed plan of business of the investment company is not unfair, unjust, or inequitable the commissioner of corporations shall issue to the investment company a certificate, authorizing it to sell securities, as therein specified within this state, reciting that the company has complied with the provisions of this act, that detailed information concerning the investment company and its securities is on file in the office of the commissioner of corporations and that the investment company is authorized to sell said securities within this state on such conditions, if any, as the commissioner of corporations may in said certificate prescribe. Said certificate shall recite in bold type that the issuance of this certificate is permissive only and does not constitute a recommendation or indorsement of said securities. The commissioner of corporations may impose such conditions as he may deem necessary to the issue of said securities, and may, from time to time, for cause, rescind, alter or amend the certificate. If the commissioner of corporations finds that the proposed plan of business of the investment company is unfair, unjust, or inequitable or that it does not intend to do a fair and honest business, he shall refuse to issue the certificate and shall notify the investment company in writing of his decision. It shall be unlawful to issue any security to which this act is applicable unless a certificate or a temporary permit authorizing the issue thereof shall first have been secured from the commissioner of corporations as provided in this act; and it shall further be unlawful for any investment company, investment broker or agent as in this act defined, to sell, offer for sale, negotiate for the sale of or take subscriptions for any stock, stock certificate, bond or other evidence of indebtedness of any kind or character without exhibiting to the prospective purchaser or prospective purchasers of such securities, or any thereof, a copy of the certificate issued to such investment company in accordance herewith. A corporation may without applying for a certificate under the provisions of this act issue to each of its directors one share of stock for the purpose of qualifying as directors. The commissioner of corporations, if satisfied that the investment company intends to do a fair, just and equitable business, may, forthwith upon the filing of the statement and other papers required by section four of this act, issue to said investment company, upon such conditions as he may prescribe, a temporary permit to issue its securities pending the examination of said statement and other papers, and may, from time to time, for cause, rescind, alter or amend said temporary permit.

SEC. 6. The provisions of sections four and five of this act, in so far as applicable, shall apply to investment brokers; *provided*, that the commissioner of corporations may, if he finds that the applicant has a



good business reputation and deals only in good securities, issue to an investment broker a general permit entitling such investment broker to sell securities within this state, authorized by him, until the first of March following, when it will be necessary to secure a new general permit. For each such general permit the commissioner of corporations shall charge the sum of five dollars. Such general permit, however, shall be subject to revocation by the commissioner of corporations at any time for cause appearing to him sufficient. The commissioner of corporations shall forthwith mail written notice of such revocation to the investment broker.

SEC. 7. Any investment company or investment broker may appoint one or more agents, but it shall be unlawful for any such agent to do any business as specified in this act until he shall have secured from the commissioner of corporations a certificate authorizing him to represent such investment company or investment broker within this state until the first of March following, when it will be necessary to secure a new certificate. For each certificate the commissioner of corporations shall charge the sum of one dollar. Such certificate, however, shall be subject to revocation by the commissioner of corporations at any time for cause appearing to him sufficient.

SEC. 8. The commissioner of corporations shall have general supervision and control, as provided in this act, over any and all investment companies and investment brokers, and all such investment companies and investment brokers shall be subject to examination by the commissioner of corporations or a duly authorized deputy at any time the commissioner of corporations may deem it advisable to have such examination made to carry out any provision of this act, and in the same manner and with the same powers as is now, or may hereafter be provided for the examination of state banks. Such investment company or investment broker shall pay to the commissioner of corporations, for each examination, a fee of ten dollars and traveling expenses for each day or fraction thereof that he or his deputy shall necessarily be absent from his office for the purpose of making such examination, and the failure or refusal of any investment company or investment broker to pay such fee upon the demand of the commissioner of corporations shall work a forfeiture of its or his rights to sell any further securities in this state until such fee shall have been paid to the commissioner of corporations, with interest at the rate of seven per cent from the time of the demand of the commissioner of corporations and an additional twenty-five per cent of such fee by way of penalty.

SEC. 9. It shall be unlawful for any investment company, investment broker or agent to issue, circulate or deliver any advertisement, pamphlet, prospectus, circular or statement or other document in regard to securities which it desires to sell in this state until after such investment company, investment broker or agent shall have been licensed to sell such securities as provided in this act. It shall be unlawful for any such licensed investment company, investment broker or agent to issue, circulate or deliver any such advertisement, pamphlet, prospectus, circular, statement or other document, unless the same shall be signed with the name of the investment company or investment broker and bear a serial number and a copy thereof shall first have been filed with the commissioner of corporations. The commissioner of corporations

may for cause object to any such advertisement, pamphlet, prospectus, circular, statement or other document, whereupon it shall be unlawful for such investment company, investment broker or agent to further issue, circulate or deliver such advertisement, pamphlet, prospectus, circular, statement or other document.

SEC. 10. (a) Every investment company, until it shall have sold all the securities authorized by the commissioner of corporations and disposed of the proceeds thereof, shall file in the office of the commissioner of corporations, under date of December 31st and June 30th of each year, and within fifteen days after said dates, and also at such other times as may be required by the commissioner of corporations, a report setting forth in such form as the commissioner of corporations may prescribe, the securities authorized by him and sold under the provisions of this act, the proceeds derived therefrom, the disposition of such proceeds and such other information concerning its affairs relating to the subject matter of this act, as the commissioner of corporations may require.

(b) Every investment broker shall when called upon by the commissioner of corporations file in his office a report giving such information as he may call for, relating to the securities, the sale of which has been authorized under the provisions of this act.

SEC. 11. All papers, documents, reports and other instruments in writing filed with the commissioner of corporations under this act shall be open to public inspection; *provided*, that if in his judgment the public welfare or the welfare of any investment company demands that any portion of such information be not made public he may withhold such information from public inspection for such time as in his judgment is necessary.

SEC. 12. An appeal may be taken from any decision of the commissioner of corporations under this act by filing with the clerk of the superior court of the State of California, in and for the city and county of San Francisco, a certified transcript of all papers in the office of the commissioner of corporations relating to such decision. It shall be the duty of the commissioner of corporations to make and certify to said transcript upon payment to him of a fee of ten cents for each folio and one dollar for the certification. The court shall upon such appeal be limited to a consideration of the question whether there has been abuse of discretion on the part of the commissioner of corporations in making such decision.

SEC. 13. Any person who shall knowingly or wilfully subscribe to or make or cause to be made any false statement or false entry in any book of any investment company or investment broker, or exhibit any false paper with the intention of deceiving any person authorized to examine into its affairs, or who shall make or publish any false or misleading statement of its financial condition or concerning the securities by it offered for sale, shall be guilty of a misdemeanor and shall be punishable by a fine not exceeding one thousand dollars or by imprisonment in a county jail not exceeding one year or by both such fine and imprisonment.

SEC. 14. Any corporation, association, copartnership or company which violates or fails to comply with any of the provisions of this act, or which fails, omits or neglects to obey, observe or comply with any



order, decision, demand or requirement, or any part or provision thereof, of the commissioner of corporations under the provisions of this act, is subject to a penalty of not less than five hundred dollars nor more than two thousand dollars for each and every offense, which penalty if unpaid after demand by the commissioner of corporations, shall be recovered in an action brought in the name of the people of the State of California by the attorney general.

SEC. 15. Every person who violates or fails to comply with any of the provisions of this act or who fails, omits or neglects to obey, observe or comply with any order, decision, demand or requirement, or any part or provision thereof, of the commissioner of corporations under the provisions of this act in any case in which a different penalty is not specifically provided, is guilty of a misdemeanor and is punishable by a fine not exceeding one thousand dollars, or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 16. There is hereby created a state corporation department. The chief officer of such department shall be the commissioner of corporations. He shall be appointed by the governor and hold office at the pleasure of the governor. He shall receive an annual salary of five thousand dollars, to be paid monthly out of the state treasury upon a warrant of the controller. He shall within fifteen days from the time of notice of his appointment take and subscribe to the constitutional oath of office and file the same in the office of the secretary of state and execute to the people of the state a bond in the penal sum of ten thousand dollars with corporate security or two or more sureties, to be approved by the governor of the state, for the faithful discharge of the duties of his office.

SEC. 17. The commissioner of corporations shall employ such clerks and deputies as he may need to discharge in proper manner the duties imposed upon him by law. Neither the commissioner of corporations nor any of his clerks or deputies shall be interested in any investment company, or investment broker, as director, stockholder, officer, member, agent or employee. Such clerks and deputies shall perform such duties as the commissioner of corporations shall assign to them. He shall fix the compensation of such clerks and deputies which compensation shall be paid monthly on the certificate of the commissioner of corporations, and on the warrant of the controller out of the state treasury; *provided, however*, that the total expenditures provided for in this act shall not exceed fifty thousand dollars per annum. Each deputy shall within fifteen days after his appointment take and subscribe to the constitutional oath of office and file the same in the office of the secretary of state.

SEC. 18. The commissioner of corporations shall have his office in the city of Sacramento and he shall from time to time obtain the necessary furniture, stationery, fuel, light and other proper conveniences for the transaction of the business of the state corporation department, the expenses of which shall be paid out of the state treasury on the certificate of the commissioner of corporations and the warrant of the controller.



SEC. 19. A fund is hereby created to be known as the "corporation commission fund" and out of said fund shall be paid all the expenses incurred in and about the conduct of the business of the corporation department, including the salary of the commissioner and his clerks and deputies, traveling expenses, furnishing rooms and rent. All moneys collected or received by the commissioner of corporations under and by virtue of the provisions of this act shall be delivered by him to the treasurer of the state, who shall deposit the same to the credit of said corporation commission fund. And all such fund so deposited or such part thereof as may be necessary for the purposes of this act are hereby appropriated to the use of the corporation commission fund for the purposes of this act. It shall be the duty of the commissioner of corporations semiannually to certify under oath to the state treasurer and secretary of state the total amount of receipts and expenditures of the state corporation department for the six months preceding. All fees and payments of every description required by this act to be paid to the commissioner of corporations shall be paid by him to the state treasurer on the first day of each week following their receipt by the commissioner of corporations.

SEC. 20. The commissioner of corporations shall adopt a seal with the words "Commissioner of Corporations, State of California," and such other device as the commissioner of corporations may desire engraved thereon by which he shall authenticate the proceedings of his office. Copies of all records and papers in the office of the corporation department shall be received in evidence of all cases equally and with like effect as the originals.

SEC. 21. Every official report made by the commissioner of corporations and every report duly verified, of an examination made, shall be prima facie evidence of the facts therein stated for all purposes in any action or proceedings wherein any investment company or investment broker is a party.

SEC. 22. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

SEC. 23. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

SEC. 24. The sum of ten thousand dollars is hereby appropriated out of any moneys in the state treasury not otherwise appropriated for the purpose of carrying this act into effect.

SEC. 25. This act shall take effect November 1, 1913.

## WATER COMMISSION ACT.

## CHAPTER 586.

An act to regulate the use of water which is subject to such control by the State of California, and in that behalf creating a state water commission; specifying and providing for the appointment of the members of said commission; fixing the terms of office and compensation of the members of said commission; fixing the powers, duties and authority of said commission and its members; providing for the filling of vacancies in the membership of said commission; providing for the removal from office of the appointed members of said commission; providing for the co-operation of courts with said commission; providing that certain courts shall take judicial notice of certain acts of the state water commission; specifying the duties of all persons summoned as witnesses before said commission or any of its members; appropriating money for carrying out the provisions of this act; providing for the payment of the indebtedness and expenses of said commission, its members and employees; declaring what water is unappropriated; providing for the utilization of water and the works necessary to such utilization to the full capacity of streams or of such portion or portions of such capacity as the public good may require; declaring what water may be appropriated; declaring that the non-application for ten consecutive years of any portion of the waters of any stream to lands riparian to such stream shall be conclusive presumption that the use of such non-applied water is not needed on said riparian lands for a useful or beneficial purpose; declaring that such non-applied water shall be deemed to be in the use of the state and subject to appropriation; declaring the duties of those who desire to appropriate water; declaring the periods for which water may be appropriated and the conditions under which water may be appropriated; providing for the payment of fees and charges by the applicants for permission to appropriate water and by the appropriators of water; providing for the ascertainment and adjudication of water rights; providing for the bringing of actions by certain persons, or, upon the direction of the state water commission, by the attorney general, for the quieting of title to water rights; specifying certain duties of the claimants, possessors or users of water or water rights; declaring water rights forfeited under certain conditions; regulating the appropriation of water; excepting cities, cities and counties, municipal water districts, irrigation districts and lighting districts from certain provisions of this act; defining certain words and terms used in this act; repealing all acts or parts of acts in conflict with this act; declaring how this act shall be known; making legislative declaration concerning those parts of this act which may not be declared unconstitutional.

(Approved June 16, 1913.)

*The people of the State of California do enact as follows:*

SECTION 1. For the purpose of carrying out the provisions of this act a state water commission consisting of five persons is hereby created and established. Two members of said commission shall be, ex officio, the governor of the state and the state engineer, respectively. Three members of said commission shall be appointed by the governor for the term of four years; *provided, however*, that of the members first appointed one shall be appointed to hold office until the first day in January, nineteen hundred and fourteen, one until the first day in January, nineteen hundred and fifteen, and one until the first day in January, nineteen hundred and sixteen. Such appointive commissioners shall be men of practical knowledge or experience in the application and use of waters for irrigation, mining and municipal purposes, and shall be so appointed that at least one thereof shall have had practical knowledge and experience in the use of water for agricultural purposes, and one thereof shall have had practical knowledge and experience in the use of water for mining purposes, and one thereof shall have had practical knowledge and experience in the use of water for municipal purposes. The commissioners shall elect one of their



number president of the commission. The appointed members of said commission shall each receive as compensation for his services the sum of five thousand dollars per annum. No commissioner who is directly or indirectly interested in any matter before the commission shall sit with the commission during the hearing of such matter; nor shall he be detailed by the commission to investigate or report on any such matter; nor shall he take part in any determination of any such matter. But the governor shall have the power and authority, upon request of the commission, to appoint *pro tempore* some disinterested person to sit and act in the place and stead of such interested commissioner. Such *pro tempore* commissioner shall have compensation for the time of service equal to the compensation of a commissioner during such service and shall have the power and authority of the same, only in the matter for the investigation and determination of which he shall have been appointed and his connection with the commission shall cease and determine upon the completion of the investigation and determination for which he was appointed. But the commissioner in whose place and stead he sits shall have power, compensation and authority in all other cases.

SEC. 2. Whenever a vacancy in the state water commission shall occur, the governor shall forthwith appoint a qualified person to fill the same for the unexpired term. The legislature, by a two-thirds vote of all members elected to each house, or the governor, may remove any one or more of the appointed commissioners from office. The commission shall have a seal bearing the following inscription: State Water Commission of California. The seal shall be affixed to all authentications of copies of records and to such other instruments as the commission may direct. All courts shall take judicial notice of said seal.

SEC. 3. A majority of the appointed commissioners shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of the commission. No vacancy in the commission shall impair the right of the remaining commissioners to exercise all the powers of the commission. The act of a majority of the commissioners present, when in session as a board, shall be deemed to be the act of the commission; but any investigations, inquiry or hearing which the commission has power to undertake or hold may be undertaken or held by or before any commissioners of commissioner designated for the purpose by the commission; and every finding, order, ascertainment or decision made by the commissioners or the commissioner so designated pursuant to such investigation, inquiry or hearing, when approved by the commission and ordered filed in its office, shall be and be deemed to be the finding, order, ascertainment or decision of the commission.

SEC. 4. (a) Each commissioner shall have power to administer oaths, certify to all official acts, and to issue subpoenas for the attendance of witnesses and the production of papers, books, maps, accounts, documents and testimony in any inquiry, investigation, hearing, ascertainment or proceeding ordered or undertaken by the commission in any part of the state. Each witness who shall appear by order of the commission or any commissioners or a commissioner shall receive for his attendance the same fees and mileage allowed by law to witnesses in civil cases, which amount shall be paid by the party at whose request



such witness is subpœnaed. When any witness who has not been required to attend at the request of any party shall be subpœnaed by the commission his fees and mileage shall be paid from the funds appropriated for the use of the commission in the same manner as other expenses of the commission are paid. Any witness subpœnaed, except one whose fees and mileage may be paid from the funds of the commission, may, at the time of service, demand the fee to which he is entitled for travel to and from the place at which he is required to appear and one day's attendance. If such witness demands such fees at the time of service, and they are not at that time paid or tendered, he shall not be required to attend before the commission or commissioners as directed in the subpœna. All fees and mileage to which any witness is entitled under the provisions of this section may be collected by action therefor instituted by the person to whom such fees are payable. But no witness shall be compelled to attend as a witness before the water commission or any water commissioner or water commissioners out of the county in which he resides, unless the distance be less than thirty miles from his place of residence to the place of hearing.

(b) The superior court of the county or city and county in which any inquiry, investigation, hearing or proceedings may be held by the commission or any commissioner or commissioners shall have the power to compel the attendance of witnesses and the production of papers, maps, books, accounts, documents and testimony as required by any subpœna issued by the commission or any commissioner or commissioners. The commission, commissioners or commissioner before whom the testimony is to be given or produced may, in case of the refusal of any witness to attend or testify or produce any papers, maps, books, accounts or documents required by such subpœna, report to the superior court in and for the county or city and county in which the proceeding is pending by petition, setting forth that due notice has been given of the time and place of attendance of said witness, or for the production of said papers, maps, books, accounts or documents and that the witness has been summoned in the manner prescribed in this act, and that the witness has failed and refused to attend or produce the papers, maps, books, accounts or documents required by the subpœna before the commission, commissioners, or commissioner in the cause or proceeding named in the notice and subpœna, or has refused to answer questions propounded to him in the course of such cause or proceeding, and ask an order of said court, compelling the witness to attend, testify, and produce said papers, maps, books, accounts or documents before the commission, or commissioners, or commissioner. The court, upon the petition of the commission or commissioners or commissioner, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten days from the date of the order, and then and there show cause, if any he have, why he refused to obey said subpœna, or refused to answer questions propounded to him by said commission, or any commissioners or any commissioner, or neglected, failed or refused to produce before said commission, or any commissioners or any commissioner the books, papers, maps, accounts or documents called for in said subpœna. A copy of said order and the petition therefor shall be served upon said witness. If it shall appear to the court that said

subpœna was regularly issued by the commission or any commissioners or a commissioner, the court shall thereupon enter an order that said witness appear before the commission or commissioners or commissioner at the time and place fixed in said order, and testify or produce the required papers, maps, books, accounts or documents, or both testify and produce; and upon failure to obey said order said witness shall be dealt with as for contempt of court.

(c) The state water commission or any commissioners or commissioner, or any party to a proceeding before the commission or any commissioners or any commissioner, may in any investigation or hearing before the commission or any commissioners or any commissioner cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for depositions in civil actions in the superior courts of this state.

(d) No person shall be excused from testifying or from producing any book, map, document, paper or account in any investigation or inquiry by or hearing before the commission or any commissioners or commissioner upon the ground that the testimony or evidence, book, map, document, paper or account required of him may tend to incriminate him or subject him to penalty or forfeiture. But no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing material to the matter under investigation by said commission, or any commissioners, or any commissioner concerning which he shall have been compelled to testify or to produce documentary evidence; *provided*, that no person so testifying or producing shall be exempt from prosecution and punishment for any perjury committed by him in his testimony.

SEC. 5. A full and accurate record of business or acts performed or of testimony taken by the commission or any member or members thereof in pursuance of the provisions of this act shall be kept and be placed on file in the office of said water commission.

SEC. 6. The state water commission shall take, charge and collect the following fees: for copies and records not required to be certified or otherwise authenticated by the commission, ten cents for each folio; for certified copies of official documents and orders filed in its office, fifteen cents for each folio, and one dollar for every certificate under seal affixed thereto; for certified copies of evidence and proceedings before the commission, fifteen cents for each folio. The commission may fix reasonable charges for publications issued under its authority. All fees charged and collected under this section shall be paid, at least once each week, accompanied by a detailed statement thereof, into the treasury of the state.

SEC. 7. For the purpose of carrying out the provisions of this act the state water commission is authorized to pass such necessary rules and regulations as it may from time to time deem advisable, and to appoint and remove at its pleasure a secretary who shall have charge of its books and records and perform such other duties as from time to time may be prescribed and whose salary shall be fixed by the water commission; and the state water commission may also employ such expert, technical and clerical assistance, and upon such terms, as it may deem proper.

SEC. 8. For the purpose of carrying out the provisions of this act



the sum of fifty thousand dollars is hereby appropriated for the fiscal years 1913-1914 and 1914-1915 out of any money in the state treasury not otherwise appropriated; and the state controller is hereby authorized and directed to draw warrants upon such sum from time to time upon the requisition of the state water commission approved by the state board of control, and the state treasurer is hereby authorized and directed to pay such warrants.

SEC. 9. All indebtedness incurred for salaries, and all necessary costs in traveling and other expenses of said commission, and each of its members and persons employed by it, while actually engaged in the business of said commission, shall be paid by the state out of the funds hereby appropriated, upon the sworn statement of the person or persons incurring such indebtedness, and upon the requisition of the state water commission, approved by the state board of control, and the state controller is hereby authorized to draw warrants upon the state treasurer for said indebtedness, salaries, costs and expenses, as provided by law for the payment of similar costs and expenses and the drawing of similar warrants.

SEC. 10. The state water commission is hereby authorized and empowered to investigate for the purpose of this act all streams, stream systems, portions of stream systems, lakes, or other bodies of water, and to take testimony in regard to the rights to water or the use of water thereon or therein, and to ascertain whether or not such water, or any portion thereof, or the use of said water or any portion thereof, heretofore filed upon or attempted to be appropriated by any person, firm, association, or corporation, is appropriated under the laws of this state.

SEC. 11. All water or the use of water which has never been appropriated, or which has been heretofore appropriated and which has not been in process, from the date of the initial act of appropriation, of being put, with due diligence in proportion to the magnitude of the work necessary properly to utilize for the purpose of such appropriation such water or the use of water, or which has not been put, or which has ceased to be put to some useful or beneficial purpose, or which may hereafter be appropriated and cease to be put, to the useful or beneficial purpose for which it was appropriated, or which in the future may be appropriated and not be, in the process of being put, from the date of the initial act of appropriation, to the useful or beneficial purpose for which it was appropriated, with due diligence in proportion to the magnitude of the work necessary properly to utilize for the purpose of such appropriation such water or the use of water, is hereby declared to be unappropriated. And all waters flowing in any river, stream, canyon, ravine or other natural channel, excepting so far as such waters have been or are being applied to useful and beneficial purpose upon or in so far as such waters are or may be reasonably needed for useful, and beneficial purposes upon lands riparian thereto, or otherwise appropriated, is and are hereby declared to be public waters of the State of California and subject to appropriation in accordance with the provisions of this act. If any portion of the waters of any stream shall not be put to a useful or beneficial purpose to or upon lands riparian to such stream for any continuous period of ten consecutive years after the passage of this act, such non-application shall be deemed to be conclusive presumption that the use of such portions of the waters of such



stream is not needed upon said riparian lands for any useful or beneficial purpose; and such portion of the waters of any stream so non-applied, unless otherwise appropriated for a useful and beneficial purpose is hereby declared to be in the use of the state and subject to appropriation in accordance with the provisions of this act. In any case where a reservoir or reservoirs have been or shall hereafter under the provisions of this act be constructed or surveyed, laid out and proposed to be constructed for the storage of water for a system, which water is to be used at one or more points under appropriations of water heretofore or hereafter made, which appropriations and rights thereunder are now, or shall hereafter be held and owned by the person or corporation owning such reservoir site or sites and constructing such reservoir or reservoirs, such reservoir or reservoirs and appropriations and rights shall, in the discretion of the state water commission, constitute a single enterprise and unit, and work of constructing such reservoir or reservoirs, or any of them, or work on any one of such appropriations shall, in the discretion of said commission, be sufficient to maintain and preserve all such applications for appropriations and rights thereunder.

SEC. 12. The state water commission shall have authority to, and may, for good cause shown, upon the application of any appropriator or user of water under an appropriation made and maintained according to law prior to the passage of this act, prescribe the time within which the full amount of the water appropriated shall be applied to a useful or beneficial purpose; *provided*, that said appropriator or user shall have proceeded, with due diligence in proportion to the magnitude of the project, to carry on the work necessary to put the water to a beneficial use; and in determining said time said commission shall grant a reasonable time after the construction of the works or canal or ditch or conduits or storage system used for the diversion, conveyance or storage of water; and in doing so said commission shall also take into consideration the cost of the application of such water to the useful or beneficial purpose, the good faith of the appropriator, the market for water or power to be supplied, the present demand therefor, and the income or use that may be required to provide fair and reasonable returns upon the investment and any other facts or matters pertinent to the inquiry. Upon prescribing such time the state water commission shall issue a certificate showing its determination of the matter. For good cause shown, the state water commission may extend the time by granting further certificates. And, for the time so prescribed or extended, the said appropriator or user shall be deemed to be putting said water to a beneficial use.

And if at any time it shall appear to the state water commission, after a hearing of the parties interested and an investigation, that the full capacity of the works built or constructed, or being built or constructed, under an appropriation of water or the use thereof made under the provisions of this act has not developed or cannot develop the full capacity of the stream at the point where said works have been or are being built or constructed, and that the holder of the said appropriation will not or cannot within a period deemed to be reasonable by the commission, develop the said stream at said point to such a capacity as the commission deems to be required by the public good, then and

in that case the said commission, in its discretion, may permit the joint occupancy and use, with the holder of the appropriation, to the extent necessary to develop the stream to its full capacity or to such portion of said capacity as may appear to the state water commission to be advisable, by any and all persons, firms, associations, or corporations applying therefor, of any dam, tunnel, diversion works, ditch, or other works or constructions already built or constructed or in process of being built or constructed under this act; *provided*, that said commission shall take into consideration the reasonable cost of the original and new work, the good faith of the applicant, the market for water or power to be supplied by the original and the new work, and the income or use that may be required to provide fair and reasonable returns upon such cost; *provided, further*, that the applicant or applicants shall be required to pay to the party or parties owning said dam, tunnel, diversion works, ditch, or other works or constructions a pro rata portion of the total cost of the old and the new works, said pro rata portion to be based upon the proportion of the water used by the original and the subsequent users of said dam, tunnel, diversion works, ditch, or other works or constructions, if the water is used or to be used for irrigation or domestic purposes; or, if the water is used or to be used for the generation of electricity, or electrical or other power, the said pro rata portion shall be based upon the relative amount of electricity or electrical or other power capable of being developed by the original and the new works; or, if a portion of the water utilized under a joint occupancy of any dam, tunnel, diversion works, ditch, or other works or construction, shall be used for the purpose of irrigation and another portion of said water shall be used for the generation of electricity or electrical or other power, then and in that case the applicant or applicants for joint occupancy shall be required to pay to the party or parties owning said dam, tunnel, diversion works, ditch, or other works or constructions a pro rata portion of the total cost of the old and new works, said pro rata portion to be based upon the proportion of the relative amount of water used by each joint occupant and the income derived by each said joint occupant from said joint occupancy; or, if any of the waters used under such joint occupancy shall be utilized for purposes other than those specified above, then and in that case the applicant or applicants for such joint occupancy shall be required to pay to the party or parties owning said dam, tunnel, diversion works, ditch, or other works or constructions, such a pro rata portion of the total cost of the old and new works as shall appear to the state water commission to be just and equitable. Said applicant or applicants shall also be required to pay a proper pro rata share, based as above, of the cost of maintaining said dam, tunnel, diversion works, ditch or other works or constructions, on and after beginning the occupancy and use thereof. Furthermore, the state water commission if it appears to the said commission that the full capacity of the works built or constructed, under an appropriation of water or the use thereof under this act, will not develop the full capacity of the stream at that point, and it appears to the commission that the public good requires it, and the commission specifically so finds after investigation and hearing of the parties interested, may permit any person, firm, association or corporation to repair, improve, add to, supplement, or enlarge, at his or its proper



cost, charge and expense, any dam, tunnel, diversion works, ditch, or other works or constructions already built or constructed or in process of being built or constructed under the provisions of this act, and to use the same jointly with the owners thereof; *provided*, that the said repairing, improving, adding to, supplementing, or enlarging, shall not materially interfere with the proper use thereof by the owner of said dam, tunnel, diversion works, ditch, or other works or constructions or shall not materially injure said dam, tunnel, diversion works, ditch or other works or constructions. And the state water commission shall determine the pro rata and other costs provided for in this section.

SEC. 13. All rights granted or declared by this act shall be ascertained, adjudicated and determined in the manner and by the tribunals as provided in this act.

SEC. 14. This act shall not be held to bestow, except as expressly provided in this act, upon any person, firm, association or corporation, any right where no such right existed prior to the time this act takes effect.

SEC. 15. The state water commission shall allow, under the provisions of this act, the appropriation of unappropriated water or of the use thereof, or of water or of the use thereof which may hereafter cease to be appropriated, or which may hereafter be declared to be unappropriated, or which, having been used under claim of riparian proprietorship or appropriation finds its way back into a stream, lake or other body of water and also such water as is declared under section eleven of this act to be subject to appropriation.

SEC. 16. Every application for a permit to appropriate water shall set forth the name and post-office address of the applicant, the source of water supply, the nature and amount of the proposed use, the location and description of the proposed headworks, ditch, canal and other works; the proposed place of diversion and the place where it is intended to use the water; the time within which it is proposed to begin construction, the time required for completion of the construction, and the time for the complete application of the water to the proposed use. If for agricultural purposes, the application shall, besides the above general requirements, give the legal subdivisions of the land and the acreage to be irrigated, as near as may be; if for power purposes, it shall give, besides the general requirements prescribed above, the nature of the works by means of which the power is to be developed, the head and amount of water to be utilized, and the use to which the power is to be applied; if for storage in a reservoir, it shall give, in addition to the general requirements prescribed above, the height of dam, the capacity of the reservoir, and the use to be made of the impounded waters; if for municipal water supply, it shall give, besides the general requirements specified above, the present population to be served, and, as near as may be, the future requirements of the city; if for mining purposes, it shall give, in addition to the general requirements prescribed above, the nature and location of the mines to be served and the methods of supplying and utilizing the water. All applications shall be accompanied by as many copies of such maps, drawings, and other data as may be prescribed or required by the state water commission, and such maps, drawings, and other data shall be considered as part of the application. If any permittee or licensee, or the heirs, successors, or



assigns of any permittee or licensee, desire to change the point of diversion from the point of diversion specified in the original application, or after the granting of any permit or license, such change or changes may be made only upon the permission of the state water commission; *provided*, that, before granting such permission, such applicant must establish, to the satisfaction of the state water commission, and such commission must so find, that such change in the place of diversion will not operate to the injury of any other appropriator or legal user of such waters before permitting such change in the place of the diversion. Upon receipt of application for permission to make such change in the place of diversion, the commission shall, by order, fix a time within which any person interested may appear in opposition to such application, and such applicant shall, if the commission so require, cause to be published at least once a week for four consecutive weeks, in a newspaper or newspapers of general circulation in the county in which is situated both the old and new points of diversion, a copy of said order. Proof of such publication shall be by affidavit of the publisher of such newspaper. Should any objection be made to the change in point of diversion so applied for, the state water commission shall fix a time for the hearing of said application and of the objections thereto, which time shall be not less than thirty days nor more than sixty days after the period of said publication, and upon such hearing the said commission shall grant or refuse, as the facts shall warrant, such permission to change place of diversion.

SEC. 17. Any person, firm, association or corporation may apply for and secure from the state water commission, in conformity with this act and in conformity with reasonable rules and regulations adopted from time to time by the state water commission, a permit for any unappropriated water or for water which having been appropriated or used flows back into a stream, lake or other body of water within this state. And any application so made shall give to the applicant a priority of right as of the date of said application to such water or the use thereof until such application shall have been approved or rejected by said commission; *provided*, that such priority shall continue only so long as the provisions of law and the rules and regulations of the water commission shall be followed by the applicant. Upon the approval of any application by the commission, said approval shall give priority of right as of the date of said application, and shall give the right to take and use the amount of water specified in said approval until the issuance by the state water commission of a license for the use of said amount of water, or until the said commission refuses to issue said license. But the approval of any application shall give the right to take and use water only to the extent and for the purpose allowed in said approval; *provided*, that any defective application made in a bona fide attempt to conform to the rules and regulations of the state water commission and to the law shall secure to the applicant a priority of right as of the date of said application until he shall have been notified by said commission in what respect his application is defective. And said applicant shall be allowed sixty days after notice of said defect in which to file an amended and perfected application. If, within said sixty days, said applicant shall not file an amended and perfected application, said priority of right shall cease and determine, unless for

good cause shown the state water commission shall allow said applicant to file a further amended and perfected application; *provided, also*, that any priority of right secured under this section shall not be effective for more than thirty days after service of notice of such approval, personally or by registered mail, on the applicant, unless within said period of thirty days a true copy of said approval upon which such priority is based shall have been filed in the office of the recorder of the county or city and county in which the water is to be diverted, and, within ten days thereafter, a certificate of such filing by the county recorder is also filed with the state water commission.

SEC. 18. Actual construction work upon any project shall begin within such time after the date of the approval of the application as shall be specified in said approval, which time shall not be less than sixty days from date of said approval, and the construction of the work thereafter shall be prosecuted with due diligence in accordance with this act, the terms of the approved application, and the rules and regulations of said commission; and said work shall be completed in accordance with law, the rules and regulations of the state water commission and the terms of the approved application and within a period specified in the permit; but the period of completion specified in the permit may, for good cause shown, be extended by the state water commission. And if such work be not so commenced, prosecuted and completed, the water commission shall, after notice in writing and mailed in a sealed, postage-prepaid and registered letter addressed to the applicant at the address given in his application for a permit to appropriate water, and a hearing before the commission, revoke its approval of the application. But any applicant, the approval of whose application shall have been thus revoked, shall have the right to bring an action in the superior court of the county in which is situated the point of proposed diversion of the water for a review of the order of the commission revoking said approval of the application. And thirty days after the revocation of said permit all rights of the said permittee under said permit shall cease and lapse, unless said permittee shall within said thirty days after said revocation bring an action in the superior court for a review of the order of revocation. The priority of right of any permittee so bringing an action shall continue under said permit until a final judgment is rendered as to the reasonableness of the revocation of said permit. But until and unless the revocation of the permit shall be finally decreed by such court, the permittee shall not take or use any of the water the right to take and use which is granted by said permit.

SEC. 19. Immediately upon completion, in accordance with law, the rules and regulations of the state water commission, and the terms of the permit, of the project under such application, the holder of a permit for the right to appropriate water shall report said completion to the state water commission. The said commission shall immediately thereafter cause to be made a full inspection and examination of the works constructed and shall determine whether the construction of said works is in conformity with law, the terms of the approved application, the rules and regulations of the state water commission, and the permit. The said water commission shall, if said determination is favorable to the applicant, issue a license which shall give the right to the diversion



of such an amount of water and to the use thereof as may be necessary to fulfill the purpose of the approved application. Said license shall be in such form as may be prescribed by the state water commission under the provisions of this act. But if the said commission shall find, upon inspection and examination of the works constructed, that the construction and condition of said works are not in conformity with the law, the rules and regulations of the state water commission, the terms of the approved application and the terms of the permit, then and in that case the said commission may, after due notice in writing and in the manner provided in sections one thousand and eleven, one thousand and twelve, and one thousand and thirteen of the Code of Civil Procedure to the applicant or the holder of the permit, and a public hearing thereon, refuse to issue said license. And thirty days after the refusal of said commission to issue said license all rights of the applicant and the holder of the permit under said application and permit shall lapse and cease. But the holder of any permit to whom the said water commission may have refused to issue said license, shall have the right to bring an action within thirty days after the said refusal, in the superior court to review said order and to obtain a decree requiring the issuance of such license. And the rights of the holder of any permit so bringing an action shall continue under said permit until the decree in such action has been entered and become final. But until the refusal of the commission to issue said license shall be finally determined by the courts, the permittee shall not take or use any of the water, the taking and using of which is granted to him by said permit. And if the holder of any permit which has been revoked by the state water commission shall not bring an action within said thirty days in the superior court to determine the validity of said revocation, then and in that case all rights of the applicant and of the holder of said permit shall lapse and cease.

SEC. 20. All permits and licenses for the appropriation of water shall be under the terms and conditions of this act, and shall be effective for such time as the water actually appropriated under such permits and licenses shall actually be used for the useful and beneficial purpose for which said water was appropriated, but no longer; and every such permit or license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this section and likewise the statement that any appropriator of water, to whom said permit or license may be issued, shall take the same subject to such conditions as therein expressed; *provided*, that if, at any time after the expiration of twenty years after the granting of a license, the state, or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the state shall have the right to purchase the works and property occupied and used under said license and the works built or constructed for the enjoyment of the rights granted under said license; and in the event that the said state, city, city and county, municipal water district, irrigation district, lighting district or political subdivision of the state so desiring to purchase and the said owner of said works and property cannot agree upon said purchase price, said price shall be determined in such manner as is now or may hereafter be determined in eminent domain proceedings. If it shall appear to the state water commission at any time after



a permit or license is issued as in this act provided that the permittee or licensee, or the heirs, successors, or assigns of said permittee or licensee, has not put the water granted under said permit or license to the useful or beneficial purpose for which the permit or license was granted, or that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has ceased to put said water to such useful or beneficial purpose, or that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has failed to observe any of the terms and conditions in the permit or license as issued, then and in that case the said commission, after due notice to the permittee, licensee, or the heirs, successors or assigns of such permittee or licensee, and a hearing thereon, may revoke said permit or license and declare the water to be unappropriated and open to further appropriation in accordance with the terms of this act. And the findings and declarations of said commission shall be deemed to be prima facie correct until modified or set aside by a court of competent jurisdiction; *provided*, that any action brought so to modify or set aside such finding or declaration must be commenced within thirty days after the service of notice of said revocation on said permittee or licensee, his heirs, successors or assigns. And every licensee or permittee under the provisions of this act if he accept such permit or license shall accept the same under the conditions precedent that no value whatsoever in excess of the actual amount paid to the state therefor shall at any time be assigned to or claimed for any permit or license granted or issued under the provisions of this act, or for any rights granted or acquired under the provisions of this act, in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or licensee, his heirs, successors or assigns or by the holder of any rights granted or acquired under the provisions of this act, or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the state or any city, city and county, municipal water district, irrigation district, lighting district or any political subdivision of the state, of the rights and property of any permittee or licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this act. The application for a permit by municipalities for the use of water for said municipalities or the inhabitants thereof for domestic purposes shall be considered first in right, irrespective of whether they are first in time; *provided, however*, that such application for a permit or the granting thereafter of permission to any municipality to appropriate waters, shall not authorize the appropriation of any water for other than municipal purposes, and providing further that where permission to appropriate is granted by the state water commission to any municipality for any quantity of water in excess of the existing municipal needs therefor, that pending the application of the entire appropriation permitted, the state water commission shall have the power to issue permits for the temporary appropriation of the excess of such permitted appropriation over and above the quantity being applied from time to time by such municipality; *and providing further*, that in lieu of the granting of such temporary permits for appropriation, the state water commission may authorize such municipality to become as to such surplus a public utility, subject to the jurisdiction and control of the rail-

road commission of the State of California for such period or periods from and after the date of the issuance of such permission to appropriate, as may be allowed for the application to municipal uses of the entire appropriation permitted; *and provided, further*, that when such municipality shall desire to use the additional water granted in its said application it may so do upon making just compensation for the facilities for taking, conveying and storing such additional water rendered valueless for said purposes, to the person, firm or corporation which constructed said facilities for the temporary use of said excess waters, and which compensation, if not agreed upon between the municipality and said person, firm or corporation, may be determined in the manner provided by law for determining the value of property taken by and through eminent domain proceedings.

SEC. 21. Nothing herein contained shall be construed to deprive the state or any city, city and county, municipal water district, irrigation district, lighting district or political subdivision of the state, or any person, company or corporation of any rights which, under the law of this state they may have, to acquire property by or through eminent domain proceedings.

SEC. 22. Licenses hereafter granted for water or use of water shall be subject to the right of the state to impose the fees and charges provided in this act.

SEC. 23. Every person, firm, association or corporation making application for a permit to appropriate water or the use of water under this act shall pay to the state water commission, at the time of filing said application, if the purpose or use is for the generation of electricity, or electrical or other power, a fee of two dollars and fifty cents for each theoretical horsepower capable of being developed by the works up to one hundred theoretical horsepower, with a minimum fee of twenty-five dollars, and above said one hundred theoretical horsepower the fee shall be five hundred dollars up to and including ten thousand theoretical horsepower and one thousand dollars above ten thousand theoretical horsepower capable of being so developed or a fee of ten dollars if the purpose be other than for the generation of electricity, or electrical or other power. Every person, firm, association or corporation at the time of receiving a license to appropriate water or the use of water, if the purpose be for the generation of electricity, or electrical or other power, shall pay to said commission when the said license is issued, and annually thereafter a charge of twenty-five cents for each theoretical horsepower capable of being developed by the proposed works. If the purpose of use is for other than the generation of electricity, or electrical or other power, every person, firm, association or corporation receiving a license to appropriate water shall pay to the said commission when said license is issued, and annually thereafter, a charge of ten cents per miner's inch for each miner's inch specified in the license, and for the purpose of this act forty miner's inches shall be equivalent to one cubic foot per second; *provided, however*, that no annual charge shall be made when the appropriation is made for use for irrigation purposes upon lands, not exceeding one hundred and sixty acres in area, to be actually occupied by such appropriator and cultivated in whole or in part by him, or when said water is used for mining purposes, and the amount of water so used for such mining purposes



does not exceed five hundred miner's inches, or when the water is used for the generation of power when the same does not exceed fifty horsepower and is for the private use of the appropriator. And all such fees and charges shall forthwith be paid into the state treasury by the state water commission, and the fee and annual charges provided in this section shall be subject to change by law at not less than ten-year intervals, beginning with the date of the license issued by the state water commission.

SEC. 24. Upon its own initiative or upon petition signed by one or more claimants to water or the use of water upon any stream, stream system, lake, or other body of water, requesting the ascertainment of the relative rights of the various claimants to the water or the use of water of that stream, stream system, lake or other body of water, it shall be the duty of the state water commission, if, upon investigation it finds the facts and conditions are such as to justify, to make an ascertainment of the said rights, fixing a time for the beginning of the taking of testimony and the making of such investigation as will enable it to ascertain the rights of the various claimants. In case suit is brought in the superior court for determination of rights to water or the use of water, the case may, in the discretion of the court, be transferred to the state water commission for investigation, as referee. In any case wherein the water commission shall proceed to investigate or ascertain water rights the said commission shall notify in writing in the manner provided in sections one thousand and eleven, one thousand and twelve and one thousand and thirteen of the Code of Civil Procedure all persons, firms, associations or corporations claiming or possessing any water rights which are to be the subject of ascertainment by the said commission.

SEC. 25. Upon the completion of the taking of testimony and evidence by the state water commission, the said commission shall immediately give notice by registered mail to the various claimants or possessors of water rights that, at a date and place named in the said notices, which date shall not be less than fifteen days nor more than thirty days later than the date of said notice, all of said testimony and evidence will be open to public inspection. And said testimony and evidence shall be held open to public inspection at said places for a specified period of not less than thirty days nor more than ninety days, and thereafter the said commission shall cause its findings and ascertainment of the rights of the respective claimants to said water to be made and filed in the superior court in each of the counties where said water is appropriated.

SEC. 26. If any person, firm, association or corporation claiming or possessing any interest in or right to the waters of any stream, stream system, lake or other body of water involved in any investigation or ascertainment by the state water commission of the rights to the water of said stream, stream system, lake or other body of water, desires to contest any of the interests in or rights to any of the said waters of any other person, firm, association or corporation such person, firm, association or corporation desiring so to contest shall, within ten days after the expiration of the period for public inspection prescribed in section twenty-five of this act, notify, in writing, the state water commission of said desire so to contest. Said notice shall state the ground



of contest, which shall be verified by the oath of the contestant, his agent or attorney. Within ten days of the receipt of the notice of contest the state water commission shall notify the contestant and the person, firm, association or corporation whose rights are contested to appear before it at a time and place specified in said notice, and that at said time and place said contest will be heard; *provided*, that said time shall not be less than thirty days nor more than sixty days from the date of the service of the notice of the commission; *provided, further*, that if any person, firm, association or corporation desires to contest any such ascertainment by the state water commission as hereinbefore provided, such contest may be brought as provided in sections 31 and 32 hereof.

SEC. 27. Said notice by said water commission shall be served and return made thereon in the same manner in which summons and return thereon are made in civil actions in the superior courts of this state. The water commission shall have power to adjourn hearings of contest from time to time upon reasonable notice to all parties in interest, and to issue subpoenas for and compel the attendance of witnesses to testify before it and produce papers, books, maps and other documents.

SEC. 28. The state water commission shall require from the party bringing the contest before it under section twenty-six of this act a deposit of five dollars for each day it shall be engaged in taking testimony in such contest. Upon the final ascertainment by the state water commission in any contest, the said commission shall enter an order directing the return of the deposit to the depositor if the contest shall be determined in his favor, but, if the contest shall be determined against the person bringing it, the said deposit shall be immediately paid into the state treasury.

SEC. 29. Not less than fifteen days nor more than thirty days after the expiration of the period during which the testimony and evidence is to be kept open for public inspection, or if any contest shall be made, not less than fifteen days nor more than thirty days after the settlement of said contest by the water commission, the testimony and evidence in the original hearing and the testimony and evidence taken in said contest shall be filed in the office of the water commission.

SEC. 30. The water commission may, in its discretion and in addition to the testimony and evidence submitted to it by the parties claimant to or possessors of water rights on any stream, stream system, lake or other body of water cause to be made an examination of said stream, stream system, lake or other body of water and the works diverting or utilizing water therefrom. Said examination may include the gathering of whatever data covering said stream, stream system, lake or other body of water and the various ditches and canals taking water therefrom as the said commission may require, as well as such other data and information as may, in the discretion of the said commission, be necessary to enable it properly to ascertain the relative rights of the parties claiming rights to use the waters of said stream, stream system, lake, or other body of water. The results of said examination shall be filed in the office of said commission and be open to public inspection as provided in this act for the filing and public inspection of other evidence of a like nature.

SEC. 31. As soon as practicable after the hearing of testimony and

evidence, the hearing of contest and the gathering and filing of such data and information as the water commission shall, of its own motion, direct to be gathered, the said water commission shall record in its office its ascertainment of and specific findings upon the rights of the several claimants to the use of the waters of any stream, stream system, lake or other body of water. Immediately thereafter, the said water commission shall file a certified copy of said ascertainment and specific findings together with the original evidence and testimony taken before it and all data and information gathered by its order with the clerk of the superior court in and for the county in which such stream, stream system, lake or other body of water or any part thereof is situated.

SEC. 32. After the filing with the clerk of the superior court of the evidence, data, information, specific findings and ascertainment as required by section 31 of this act, the same shall be received in the superior court as prima facie evidence of the facts, specific findings and ascertainment therein set forth. And at any time within one year after such filing an action may be brought, upon the direction of the state water commission, by the attorney general in said superior court in which said evidence, data, information, specific findings and ascertainment shall have been so filed. Or an action may be brought in said court by any one or more of the possessors or claimants concerning whose rights to any of the waters of the stream, stream system, lake or other body of water the state water commission shall have made the specific findings and ascertainment filed in said court. Said action if brought by the attorney general shall be brought in the name and behalf of the people of the State of California to quiet the title of the State of California or the people thereof to any and all water or water rights which it may have in or on said stream, stream system, lake or other body of water, and to cause all parties whose rights have been so ascertained to appear and interplead in said action in defense and determination of each and all of their respective rights, which rights, as against the state and with regard to the different rights and priorities of said rights among themselves, shall be determined by the court in said action. And if an action be brought by any one or more of said claimants or possessors, said action may be brought in the name of the said possessor or claimant and to cause all parties, whose rights have been ascertained, to appear and interplead in said action in defense and determination of each and all of their respective rights, which rights, as against the state or the people thereof, and with regard to the different rights and priorities of said rights among themselves shall be determined by the court in said action. And from and after the filing of the complaint in such action, the proceedings therein shall be as in other cases heard and determined in said court, and in accordance with the provisions of the Code of Civil Procedure of this state; *provided*, that the evidence, data, information, specific findings and ascertainment so filed with the superior court as provided in section 31 of this act must be considered by said court in its determination of both or either of said actions, and the court may affirm, modify or reject such specific findings and ascertainment and may make other or different findings as in its judgment the evidence justifies.

SEC. 33. All existing lawful appropriations of water or the use thereof, shall be and hereby are respected and upheld to extent of the



amount of water appropriated and actually put or in process of being put, from the initial date of the act of appropriation, with due diligence in proportion to the magnitude of the work necessary properly to utilize the water for the useful or beneficial purpose for which it was appropriated, or for which it is being used.

SEC. 34. Whenever proceedings shall be instituted for the ascertainment by the state water commission of rights to water or the use of water, it shall be the duty of all claimants interested therein and having notice thereof as in this act provided to appear and submit proof of their respective claims at the time and in the manner required by law; and any such claimant who shall fail to appear in such proceedings and submit proof of his claim shall be barred and estopped from subsequently asserting any rights theretofore acquired upon the stream, stream system, lake or other body of water, or portion of such stream, stream system, lake or other body of water, embraced in such proceedings, and shall be held to have forfeited all rights to said water or the use of water theretofore claimed by him on such stream, stream system, lake or other body of water, unless entitled to relief under the laws of this state; *provided*, that such proceedings shall result in an ascertainment by the state water commission and a decree by the superior court based upon such ascertainment and specific findings or a modification of said ascertainment or specific findings.

SEC. 35. In any suit wherein the state is or the people of the state are a party for the determination of a right to the use of the water of any stream, stream system, lake or other body of water, or of any portion of any stream, stream system, lake or other body of water, all who claim the right to use such water shall be made parties. When any such suit has been filed the court may call upon the state water commission to make or furnish a complete hydrographic survey of such stream, stream system, lake or other body of water, in order to obtain all the data necessary to the determination of the rights involved. The disbursements made in litigating the rights involved in such suit may be taxed by the court as in other equity suits, exclusive of the cost of such hydrographic survey.

SEC. 36. Upon the adjudication of the rights to the use of the water of a stream, or stream system, lake or other body of water, or any portion of a stream, stream system, lake or other body of water, a certified copy of the decree shall be prepared by the clerk of the court, without charge, and filed in the office of the state water commission, and said commission shall deliver to every party in such decree a certified copy thereof upon demand and the payment of the fees provided in this act. And the said commission shall file, for record, in the office of the recorder of each county in which any portion of said stream, stream system, lake or other body of water is situated, a certified copy of said decree. Said decree shall in every case declare as to the water right adjudged to each party, whether riparian or by appropriation, the extent, the priority, amount, purpose of use, point of diversion, and place of use of said water; and, as to water used for irrigation, such decree shall also declare the specific tracts of land to which it shall be appurtenant, together with such other conditions as may be necessary to define the right and its priority. But the failure of any party entitled thereto to demand or receive a copy of said decree shall not be considered to have prejudiced him or his rights in any way.



SEC. 37. The power to supervise the distribution of water in accordance with the priorities established under this act, when such supervision does not contravene the authority vested in the judiciary of the state, is hereby vested in the state water commission.

SEC. 38. The diversion or use of water subject to the provisions of this act other than as it is in this act authorized is hereby declared to be a trespass, and the state water commission is hereby authorized to institute in the superior court in and for any county wherein such diversion or use is attempted appropriate action to have such trespass enjoined.

SEC. 39. Water or the use of water which has heretofore been appropriated or acquired, or which shall hereafter be appropriated or acquired for one specific purpose shall not be deemed to be appropriated or acquired for any other or different purpose. And any person, firm, association or corporation applying to the state water commission for a license to appropriate water or the use of water shall state in the application for said license the specific purpose to which it is proposed to put such water or the use thereof. Water heretofore or hereafter appropriated for other than domestic use, may be applied to domestic use, in whole or in part, without a separate and distinct appropriation being made therefor. And water appropriated for one purpose under the provisions of this act may be subsequently appropriated for other purposes under the provisions of this act; *provided*, that such subsequent appropriation shall not injure any previous appropriation.

SEC. 40. The state water commission is also authorized and empowered to investigate any natural situation available for reservoirs or reservoir systems for gathering and distributing flood or other waters not under beneficial use in any stream, stream system or lake or other body of water, and to ascertain the feasibility of such projects, including the supply of water that may thereby be made available, the extent and character of the areas that may be thereby irrigated, and make estimate of the cost of such project.

SEC. 41. Nothing in this act shall be construed as depriving any city, city and county, municipal water district, irrigation district or lighting district of the benefit of any law heretofore or hereafter passed for their benefit in regard to the appropriation or acquisition of water or the use of water; and nothing in this act shall affect or limit in any manner whatsoever the right or power of any municipality which has heretofore appropriated or acquired water or the use of water for municipal purposes, to use or to sell or otherwise dispose of such water or the use thereof, either within or without its limits for domestic, irrigation or other purposes, in accordance with laws in effect at the time of the passage of this act.

SEC. 42. The word "water" in this act shall be construed as embracing the term "or use of water"; and the term "or use of water" in this act shall be construed as embracing the word "water." Whenever the term stream, stream system, lake or other body of water or water occurs in this act, such term shall be interpreted to refer only to surface water, and to subterranean streams flowing through known and definite channels. But nothing in this act shall be construed as giving or confirming any right, or title, or interest to or in the corpus of any water; *provided*, that the term "useful or beneficial purposes" as used in this

act shall not be construed to mean the use in any one year of more than two and one half acre feet of water per acre in the irrigation of uncultivated areas of land not devoted to cultivated crops.

SEC. 43. Nothing in this act shall be construed as depriving any person, firm, association or corporation of the right of appeal conferred under the laws of this state.

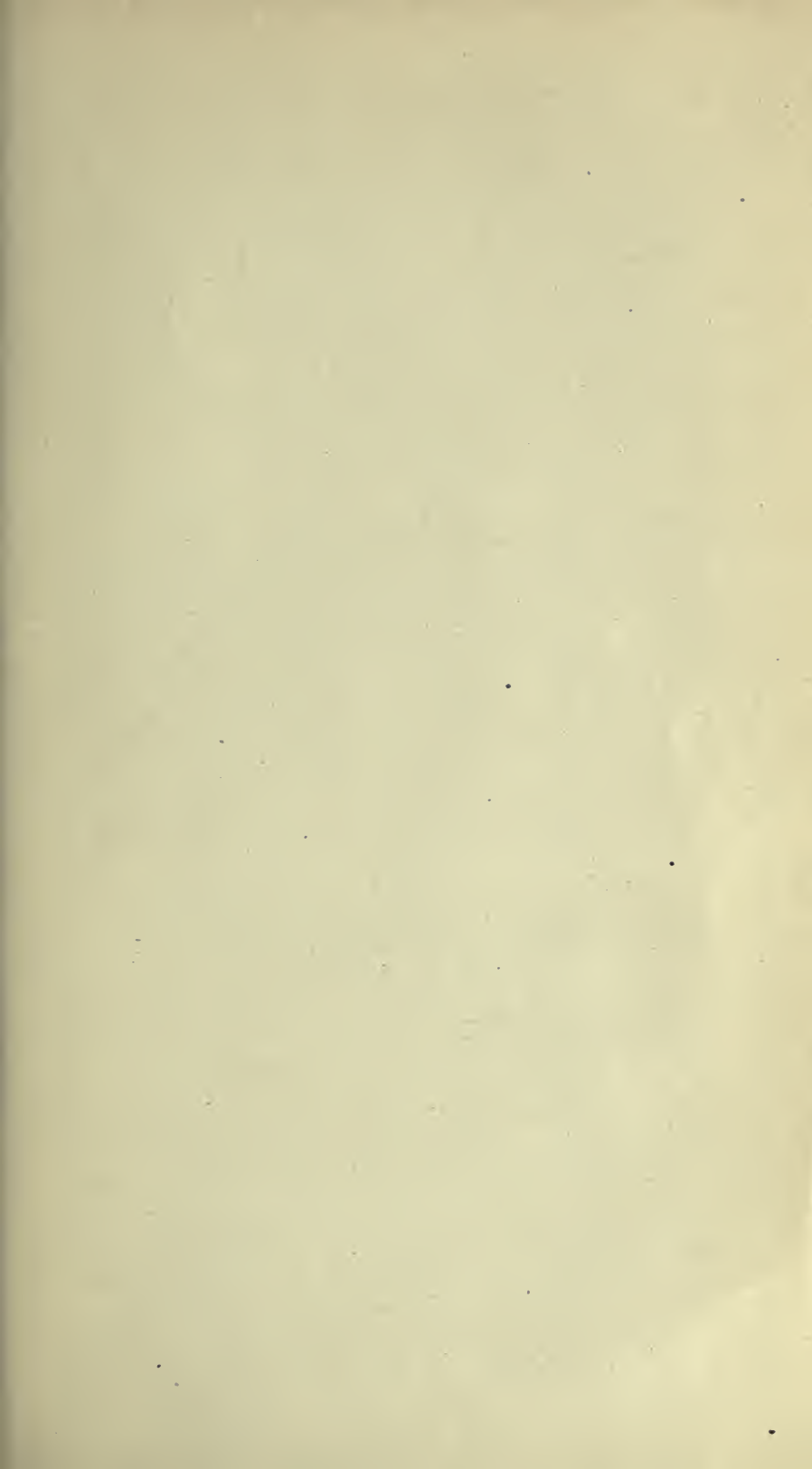
SEC. 44. All acts or parts of acts in conflict herewith are hereby repealed.

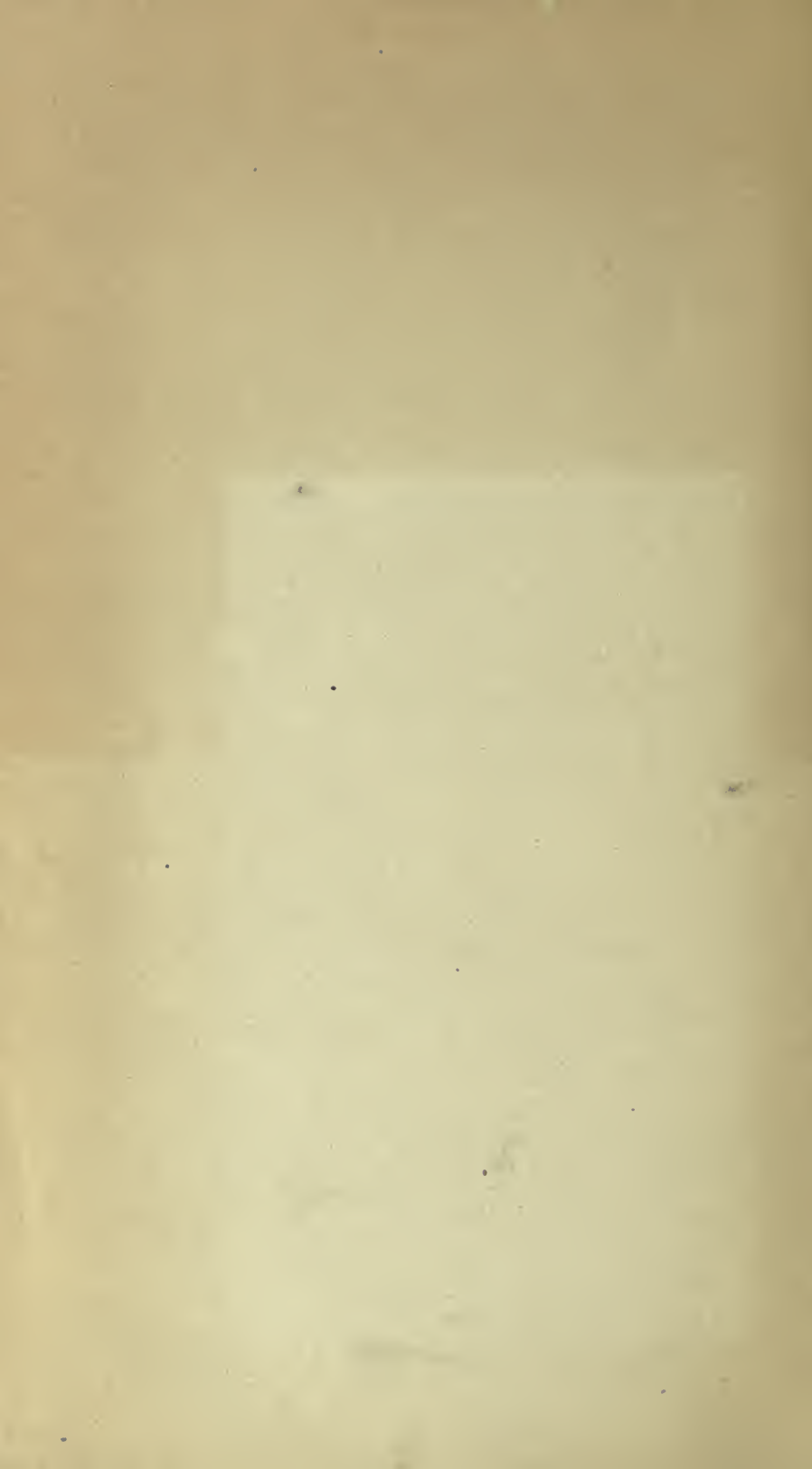
SEC. 45. This act shall be known as the "water commission act."

SEC. 46. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

















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